91ST CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 91-1783

CLEAN AIR AMENDMENTS OF 1970

DECEMBER 17, 1970.—Ordered to be printed

Mr. STAGGERS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 17255]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17255) to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *That this Act may be cited as the "Clean Air Amendments of 1970".*

RESEARCH

SEC. 2. (a) Section 103 of the Clean Air Act (42 U.S.C. 1857, et seq.) is amended by adding at the end thereof the following new subsection:

"(f) (1) In carrying out research pursuant to this Act, the Administrator shall give special emphasis to research on the short- and long-term effects of air pollutants on public health and welfare. In the furtherance of such research, he shall conduct an accelerated research program—

"(A) to improve knowledge of the contribution of air pollutants to the occurrence of adverse effects on health, including, but not limited to, behavioral, physiological, toxicological, and biochemical effects; and

"(B) to improve knowledge of the short- and long-term effects of air pollutants on welfare.

"(2) In carrying out the provisions of this subsection the Administrator may—

"(A) conduct epidemiological studies of the effects of air pollutants on mortality and morbidity;

"(B) conduct clinical and laboratory studies on the immunologic, biochemical, physiological, and the toxicological effects including carcinogenic, teratogenic, and mutagenic effects of air pollutants;

"(C) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers;

"(D) utilize the authority contained in paragraphs (1) through (4) of subsection (b); and

"(E) consult with other appropriate Federal agencies to assure that research or studies conducted pursuant to this subsection will be coordinated with research and studies of such other Federal agencies.

"(3) In entering into contracts under this subsection, the Administrator is authorized to contract for a term not to exceed 10 years in duration. For the purposes of this paragraph, there are authorized to be appropriated $15,000,000. Such amounts as are appropriated shall remain available until expended and shall be in addition to any other appropriations under this Act."

(b) Section 104(a)(1) of the Clean Air Act is amended to read as follows:

"(1) conduct and accelerate research programs directed toward development of improved, low-cost techniques for—

"(A) control of combustion byproducts of fuels,

"(B) removal of potential air pollutants from fuels prior to combustion,

"(C) control of emissions from the evaporation of fuels,

"(D) improving the efficiency of fuels combustion so as to decrease atmospheric emissions, and

"(E) producing synthetic or new fuels which, when used, result in decreased atmospheric emissions."

(c) Section 104(a)(2) of the Clean Air Act is amended by striking "and (B)" and inserting in lieu thereof the following: "(B) part of the cost of programs to develop low emission alternatives to the present internal combustion engine; (C) the cost to purchase vehicles and vehicle engines, or portions thereof, for research, development, and testing purposes; and (D)".

STATE AND REGIONAL GRANT PROGRAMS

SEC. 3. (a) Section 105(a) (1) of the Clean Air Act is amended to read as follows:

"GRANTS FOR SUPPORT OF AIR POLLUTION PLANNING AND CONTROL PROGRAMS

"SEC. 105. (a)(1)(A) The Administrator may make grants to air pollution control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and up to one-half of the cost of maintaining, programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards.

"(B) Subject to subparagraph (C), the Administrator may make grants to air pollution control agencies within the meaning of paragraph (1), (2), or (4) of section 302(b) in an amount up to three-fourths of the cost of planning, developing, establishing, or improving, and up to three-fifths of the cost of maintaining, any program for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards in an area that includes two or more municipalities, whether in the same or different States.

"(C) With respect to any air quality control region or portion thereof for which there is an applicable implementation plan under section 110, grants under subparagraph (B) may be made only to air pollution control agencies which have substantial responsibilities for carrying out such applicable implementation plan."

(b)(1) Section 105 of the Clean Air Act is further amended by adding at the end thereof the following new subsection:

"(d) The Administrator, with the concurrence of any recipient of a grant under this section, may reduce the payments to such recipient by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of any officer or employee to the recipient under section 301 of this Act, when such detail is for the convenience of, and at the request of, such recipient and for the purpose of carrying out the provisions of this Act. The amount by which such payments have been reduced shall be available for payment of such costs by the Administrator, but shall, for the purpose of determining the amount of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency."

(2) Section 301(b) of the Clean Air Act is amended (A) by striking out "Public Health Service" and inserting in lieu thereof "Environmental Protection Agency" and (B) by striking out the second sentence thereof.

(c) Section 106 of the Clean Air Act is amended to read as follows:

"INTERSTATE AIR QUALITY AGENCIES OR COMMISSIONS

"SEC. 106. For the purpose of developing implementation plans for any interstate air quality control region designated pursuant to section 107, the Administrator is authorized to pay, for two years, up to 100 per centum of the air quality planning program costs of any agency designated by the Governors of the affected States, which agency shall be capable of recommending to the Governors plans for implementation of national primary and secondary ambient air quality standards and shall include representation from the States and appropriate political subdivisions within the air quality control region. After the initial two-year period the Administrator is authorized to make grants to such agency in an amount up to three-fourths of the air quality planning program costs of such agency."

AMBIENT AIR QUALITY AND EMISSION STANDARDS

SEC. 4. (a) The Clean Air Act is amended by striking out section 107; by redesignating sections 108, 109, 110, and 111 as 115, 116, 117, and 118, respectively; and by inserting after section 106 the following new sections:

"AIR QUALITY CONTROL REGIONS

"SEC. 107. (a) Each State shall have the primary responsibility for assuring air quality within the entire geographic area comprising such State by submitting an implementation plan for such State which will specify the manner in which national primary and secondary ambient air quality standards will be achieved and maintained within each air quality control region in such State.

"(b) For purposes of developing and carrying out implementation plans under section 110—

"(1) an air quality control region designated under this section before the date of enactment of the Clean Air Amendments of 1970, or a region designated after such date under subsection (c), shall be an air quality control region; and

"(2) the portion of such State which is not part of any such designated region shall be an air quality control region, but such portion may be subdivided by the State into two or more air quality control regions with the approval of the Administrator.

"(c) The Administrator shall, within 90 days after the date of enactment of the Clean Air Amendments of 1970, after consultation with appropriate State and local authorities, designate as an air quality control region any interstate area or major intrastate area which he deems necessary or appropriate for the attainment and maintenance of ambient air quality standards. The Administrator shall immediately notify the governors of the affected States of any designation made under this subsection.

"AIR QUALITY CRITERIA AND CONTROL TECHNIQUES

"SEC. 108. (a)(1) For the purpose of establishing national primary and secondary ambient air quality standards, the Administrator shall within 30 days after the date of enactment of the Clean Air Amendments of 1970 publish, and shall from time to time thereafter revise, a list which includes each air pollutant—

"(A) which in his judgment has an adverse effect on public health or welfare;

"(B) the presence of which in the ambient air results from numerous or diverse mobile or stationary sources; and

"(C) for which air quality criteria had not been issued before the date of enactment of the Clean Air Amendments of 1970, but for which he plans to issue air quality criteria under this section.

"(2) The Administrator shall issue air quality criteria for an air pollutant within 12 months after he has included such pollutant in a list under paragraph (1). Air quality criteria for an air pollutant shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantitites. The criteria for an air pollutant, to the extent practicable, shall include information on—

"(A) those variable factors (including atmospheric conditions) which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant;

"(B) the types of air pollutants which, when present in the atmosphere, may interact with such pollutant to produce an adverse effect on public health or welfare; and

"(C) any known or anticipated adverse effects on welfare.

"(b)(1) Simultaneously with the issuance of criteria under subsection (a), the Administrator shall, after consultation with appropriate advisory committees and Federal departments and agencies, issue to the States and appropriate air pollution control agencies information on air pollution control techniques, which information shall include data relating to the technology and costs of emission control. Such information shall include such data as are available on available technology and alternative methods of prevention and control of air pollution. Such information shall also include data on alternative fuels, processes, and operating methods which will result in elimination or significant reduction of emissions.

"(2) In order to assist in the development of information on pollution control techniques, the Administrator may establish a standing consulting

committee for each air pollutant included in a list published pursuant to subsection (a)(1), which shall be comprised of technically qualified individuals representative of State and local governments, industry, and the academic community. Each such committee shall submit, as appropriate, to the Administrator information related to that required by paragraph (1).

"(c) The Administrator shall from time to time review, and, as appropriate, modify, and reissue any criteria or information on control techniques issued pursuant to this section.

"(d) The issuance of air quality criteria and information on air pollution control techniques shall be announced in the Federal Register and copies shall be made available to the general public.

"NATIONAL AMBIENT AIR QUALITY STANDARDS

"SEC. 109. (a)(1) The Administrator—

"(A) within 30 days after the date of enactment of the Clean Air Amendments of 1970, shall publish proposed regulations prescribing a national primary ambient air quality standard and a national secondary ambient air quality standard for each air pollutant for which air quality criteria have been issued prior to such date of enactment; and

"(B) after a reasonable time for interested persons to submit written comments thereon (but no later than 90 days after the initial publication of such proposed standards) shall by regulation promulgate such proposed national primary and secondary ambient air quality standards with such modifications as he deems appropriate.

"(2) With respect to any air pollutant for which air quality criteria are issued after the date of enactment of the Clean Air Amendments of 1970, the Administrator shall publish, simultaneously with the issuance of such criteria and information, proposed national primary and secondary ambient air quality standards for any such pollutant. The procedure provided for in paragraph (1)(B) of this subsection shall apply to the promulgation of such standards.

"(b)(1) National primary ambient air quality standards, prescribed under subsection (a) shall be ambient air quality standards the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health. Such primary standards may be revised in the same manner as promulgated.

"(2) Any national secondary ambient air quality standard prescribed under subsection (a) shall specify a level of air quality the attainment and maintenance of which in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. Such secondary standards may be revised in the same manner as promulgated.

"IMPLEMENTATION PLANS

"SEC. 110. (a)(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator, within nine months after the promulgation of a national primary ambient air quality standard (or any revision thereof) under section 109 for any air pollutant, a plan which provides for implementation, maintenance, and enforcement of such pri-

mary standard in each air quality control region (or portion thereof) within such State. In addition, such State shall adopt and submit to the Administrator (either as a part of a plan submitted under the preceding sentence or separately) within nine months after the promulgation of a national ambient air quality secondary standard (or revision thereof), a plan which provides for implementation, maintenance, and enforcement of such secondary standard in each air quality control region (or portion thereof) within such State. Unless a separate public hearing is provided, each State shall consider its plan implementing such secondary standard at the hearing required by the first sentence of this paragraph.

"(2) The Administrator shall, within four months after the date required for submission of a plan under paragraph (1), approve or disapprove such plan or each portion thereof. The Administrator shall approve such plan, or any portion thereof, if he determines that it was adopted after reasonable notice and hearing and that—

"(A)(i) in the case of a plan implementing a national primary ambient air quality standard, it provides for the attainment of such primary standard as expeditiously as practicable but (subject to subsection (e)) in no case later than three years from the date of approval of such plan (or any revision thereof to take account of a revised primary standard); and (ii) in the case of a plan implementing a national secondary ambient air quality standard, it specifies a reasonable time at which such secondary standard will be attained;

"(B) it includes emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard, including, but not limited to, land-use and transportation controls;

"(C) it includes provision for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality and, (ii) upon request, make such data available to the Administrator;

"(D) it includes a procedure, meeting the requirements of paragraph (4), for review (prior to construction or modification) of the location of new sources to which a standard of performance will apply;

"(E) it contains adequate provisions for intergovernmental cooperation, including measures necessary to insure that emissions of air pollutants from sources located in any air quality control region will not interfere with the attainment or maintenance of such primary or secondary standard in any portion of such region outside of such State or in any other air quality control region;

"(F) it provides (i) necessary assurances that the State will have adequate personnel, funding, and authority to carry out such implementation plan, (ii) requirements for installation of equipment by owners or operators of stationary sources to monitor emissions from such sources, (iii) for periodic reports on the nature and amounts of such emissions; (iv) that such reports shall be correlated by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection; and (v) for authority comparable to that in section 303, and adequate contingency plans to implement such authority;

"(G) it provides, to the extent necessary and practicable, for periodic inspection and testing of motor vehicles to enforce compliance with applicable emission standards; and

"(H) it provides for revision, after public hearings, of such plan (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of achieving such primary or secondary standard; or (ii) whenever the Administrator finds on the basis of information available to him that the plan is substantially inadequate to achieve the national ambient air quality primary or secondary standard which it implements.

"(3) The Administrator shall approve any revision of an implementation plan applicable to an air quality control region if he determines that it meets the requirements of paragraph (2) and has been adopted by the State after reasonable notice and public hearings.

"(4) The procedure referred to in paragraph (2)(D) for review, prior to construction or modification, of the location of new sources shall (A) provide for adequate authority to prevent the construction or modification of any new source to which a standard of performance under section 111 will apply at any location which the State determines will prevent the attainment or maintenance within any air quality control region (or portion thereof) within such State of a national ambient air quality primary or secondary standard, and (B) require that prior to commencing construction or modification of any such source, the owner or operator thereof shall submit to such State such information as may be necessary to permit the State to make a determination under clause (A).

"(b) The Administrator may, wherever he determines necessary, extend the period for submission of any plan or portion thereof which implements a national secondary ambient air quality standard for a period not to exceed 18 months from the date otherwise required for submission of such plan.

"(c) The Administrator shall, after consideration of any State hearing record, promptly prepare and publish proposed regulations setting forth an implementation plan, or portion thereof, for a State if—

"(1) the State fails to submit an implementation plan for any national ambient air quality primary or secondary standard within the time prescribed,

"(2) the plan, or any portion thereof, submitted for such State is determined by the Administrator not to be in accordance with the requirements of this section, or

"(3) the State fails, within 60 days after notification by the Administrator or such longer period as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a)(2)(H).

If such State held no public hearing associated with respect to such plan (or revision thereof), the Administrator shall provide opportunity for such hearing within such State on any proposed regulation. The Administrator shall, within six months after the date required for submission of such plan (or revision thereof), promulgate any such regulations unless, prior to such promulgation, such State has adopted and submitted a plan (or revision) which the Administrator determines to be in accordance with the requirements of this section.

"(d) For purposes of this Act, an applicable implementation plan is the implementation plan, or most recent revision thereof, which has been approved under subsection (a) or promulgated under subsection (c) and which implements a national primary or secondary ambient air quality standard in a State.

"(e)(1) Upon application of a Governor of a State at the time of submission of any plan implementing a national ambient air quality primary standard, the Administrator may (subject to paragraph (2)) extend the three-year period referred to in subsection (a)(2)(A)(i) for not more than two years for an air quality control region if after review of such plan the Administrator determines that—

"(A) one or more emission sources (or classes of moving sources) are unable to comply with the requirements of such plan which implement such primary standard because the necessary technology or other alternatives are not available or will not be available soon enough to permit compliance within such three-year period, and

"(B) the State has considered and applied as a part of its plan reasonably available alternative means of attaining such primary standard and has justifiably concluded that attainment of such primary standard within the three years cannot be achieved.

"(2) The Administrator may grant an extension under paragraph (1) only if he determines that the State plan provides for—

"(A) application of the requirements of the plan which implement such primary standard to all emission sources in such region other than the sources (or classes) described in paragraph (1)(A) within the three-year period, and

"(B) such interim measures of control of the sources (or classes) described in paragraph (1)(A) as the Administrator determines to be reasonable under the circumstances.

"(f)(1) Prior to the date on which any stationary source or class of moving sources is required to comply with any requirement of an applicable implementation plan the Governor of the State to which such plan applies may apply to the Administrator to postpone the applicability of such requirement to such source (or class) for not more than one year. If the Administrator determines that—

"(A) good faith efforts have been made to comply with such requirement before such date,

"(B) such source (or class) is unable to comply with such requirement because the necessary technology or other alternative methods of control are not available or have not been available for a sufficient period of time,

"(C) any available alternative operating procedures and interim control measures have reduced or will reduce the impact of such source on public health, and

"(D) the continued operation of such source is essential to national security or to the public health or welfare,

then the Administrator shall grant a postponement of such requirement.

"(2)(A) Any determination under paragraph (1) shall (i) be made on the record after notice to interested persons and opportunity for hearing, (ii) be based upon a fair evaluation of the entire record at such hearing, and (iii) include a statement setting forth in detail the findings and conclusions upon which the determination is based.

"(B) Any determination made pursuant to this paragraph shall be subject to judicial review by the United States court of appeals for the

circuit which includes such State upon the filing in such court within 30 days from the date of such decision of a petition by any interested person praying that the decision be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to the Administrator and thereupon the Administrator shall certify and file in such court the record upon which the final decision complained of was issued, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction to affirm or set aside the determination complained of in whole or in part. The findings of the Administrator with respect to questions of fact (including each determination made under subparagraphs (A), (B), (C), and (D) of paragraph (1)) shall be sustained if based upon a fair evaluation of the entire record at such hearing.

"(C) Proceedings before the court under this paragraph shall take precedence over all the other causes of action on the docket and shall be assigned for hearing and decision at the earliest practicable date and expedited in every way.

"(D) Section 307(a) (relating to subpenas) shall be applicable to any proceeding under this subsection.

"STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

"SEC. 111. (a) For purposes of this section:

"(1) The term 'standard of performance' means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated.

"(2) The term 'new source' means any stationary source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.

"(3) The term 'stationary source' means any building, structure, facility, or installation which emits or may emit any air pollutant.

"(4) The term 'modification' means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.

"(5) The term 'owner or operator' means any person who owns, leases, operates, controls, or supervises a stationary source.

"(6) The term 'existing source' means any stationary source other than a new source.

"(b)(1)(A) The Administrator shall, within 90 days after the date of enactment of the Clean Air Amendments of 1970, publish (and from time to time thereafter shall revise) a list of categories of stationary sources. He shall include a category of sources in such list if he determines it may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare.

"(B) Within 120 days after the inclusion of a category of stationary sources in a list under subparagraph (A), the Administrator shall propose regulations, establishing Federal standards of performance for new

sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within 90 days after such publication, such standards with such modifications as he deems appropriate. The Administrator may, from time to time, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance or revisions thereof shall become effective upon promulgation.

"(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards.

"(3) The Administrator shall, from time to time, issue information on pollution control techniques for categories of new sources and air pollutants subject to the provisions of this section.

"(4) The provisions of this section shall apply to any new source owned or operated by the United States.

"(c) (1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing standards of performance for new sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this Act to implement and enforce such standards (except with respect to new sources owned or operated by the United States).

"(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable standard of performance under this section.

"(d) (1) The Administrator shall prescribe regulations which shall establish a procedure similar to that provided by section 110 under which each State shall submit to the Administrator a plan which (A) establishes emission standards for any existing source for any air pollutant (i) for which air quality criteria have not been issued or which is not included on a list published under section 108(a) or 112(b)(1)(A) but (ii) to which a standard of performance under subsection (b) would apply if such existing source were a new source, and (B) provides for the implementation and enforcement of such emission standards.

"(2) The Administrator shall have the same authority—

"(A) to prescribe a plan for a State in cases where the State fails to submit a satisfactory plan as he would have under section 110(c) in the case of failure to submit an implementation plan, and

"(B) to enforce the provisions of such plan in cases where the State fails to enforce them as he would have under sections 113 and 114 with respect to an implementation plan.

"(e) After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

"NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

"SEC. 112. (a) For purposes of this section—

"(1) The term 'hazardous air pollutant' means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

"(2) The term 'new source' means a stationary source the construction or modification of which is commenced after the Administrator proposes regulations under this section establishing an emission standard which will be applicable to such source.

"(3) The terms 'stationary source', 'modification', 'owner or operator' and 'existing source' shall have the same meaning as such terms have under section 111(a).

"(b)(1)(A) The Administrator shall, within 90 days after the date of enactment of the Clean Air Amendments of 1970, publish (and shall from time to time thereafter revise) a list which includes each hazardous air pollutant for which he intends to establish an emission standard under this section.

"(B) Within 180 days after the inclusion of any air pollutant in such list, the Administrator shall publish proposed regulations establishing emission standards for such pollutant together with a notice of a public hearing within thirty days. Not later than 180 days after such publication, the Administrator shall prescribe an emission standard for such pollutant, unless he finds, on the basis of information presented at such hearings, that such pollutant clearly is not a hazardous air pollutant. The Administrator shall establish any such standard at the level which in his judgment provides an ample margin of safety to protect the public health from such hazardous air pollutant.

"(C) Any emission standard established pursuant to this section shall become effective upon promulgation.

"(2) The Administrator shall, from time to time, issue information on pollution control techniques for air pollutants subject to the provisions of this section.

"(c)(1) After the effective date of any emission standard under this section—

"(A) no person may construct any new source or modify any existing source which, in the Administrator's judgment, will emit an air pollutant to which such standard applies unless the Administrator finds that such source if properly operated will not cause emissions in violation of such standard, and

"(B) no air pollutant to which such standard applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source—

"(i) such standard shall not apply until 90 days after its effective date, and

"(ii) the Administrator may grant a waiver permitting such source a period of up to two years after the effective date of a standard to comply with the standard, if he finds that such period is necessary for the installation of controls and that steps will be taken during the period of the waiver to assure that the health of persons will be protected from imminent endangerment.

"(2) The President may exempt any stationary source from compliance with paragraph (1) for a period of not more than two years if he finds that the technology to implement such standards is not available and the operation of such source is required for reasons of national security. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed two years. The President shall make a report to Congress with respect to each exemption (or extension thereof) made under this paragraph.

"(d)(1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing emission standards for hazardous air pollutants for stationary sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this Act to implement and enforce such standards (except with respect to stationary sources owned or operated by the United States).

"(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard under this section.

"FEDERAL ENFORCEMENT

"SEC. 113. (a)(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any requirement of an applicable implementation plan, the Administrator shall notify the person in violation of the plan and the State in which the plan applies of such finding. If such violation extends beyond the 30th day after the date of the Administrator's notification, the Administrator may issue an order requiring such person to comply with the requirements of such plan or he may bring a civil action in accordance with subsection (b).

"(2) Whenever, on the basis of information available to him, the Administrator finds that violations of an applicable implementation plan are so widespread that such violations appear to result from a failure of the State in which the plan applies to enforce the plan effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the 30th day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan (hereafter referred to in this section as 'period of Federally assumed enforcement'), the Administrator may enforce any requirement of such plan with respect to any person—

"(A) by issuing an order to comply with such requirement, or

"(B) by bringing a civil action under subsection (b).

"(3) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of section 111(e) (relating to new source performance standards) or 112(c) (relating to standards for hazardous emissions), or is in violation of any requirement of section 114 (relating to inspections, etc.), he may issue an order requiring such person to comply with such section or requirement, or he may bring a civil action in accordance with subsection (b).

"(4) An order issued under this subsection (other than an order relating to a violation of section 112) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation, specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1)) is issued to a corporation, a copy of such order (or notice) shall be issued to appropriate corporate officers.

"(b) The Administrator may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person—

"(1) violates or fails or refuses to comply with any order issued under subsection (a); or

"(2) violates any requirement of an applicable implementation plan during any period of Federally assumed enforcement more than 30 days after having been notified by the Administrator under subsection (a)(1) of a finding that such person is violating such requirement; or

"(3) violates section 111(e) or 112(c); or

"(4) fails or refuses to comply with any requirement of section 114.

Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency.

"(c)(1) Any person who knowingly—

"(A) violates any requirement of an applicable implementation plan during any period of Federally assumed enforcement more than 30 days after having been notified by the Administrator under subsection (a)(1) that such person is violating such requirement, or

"(B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a), or

"(C) violates section 111(e) or section 112(c).

shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after the first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"INSPECTIONS, MONITORING, AND ENTRY

"SEC. 114. (a) For the purpose (i) of developing or assisting in the development of any implementation plan under section 110 or 111(d), any standard of performance under section 111, or any emission standard under section 112, (ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out section 303—

"(1) the Administrator may require the owner or operator of any emission source to (A) establish and maintain such records, (B) make such reports, (C) install, use, and maintain such monitoring equipment or methods, (D) sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (E) provide such other information as he may reasonably require; and

"(2) the Administrator or his authorized representative, upon presentation of his credentials—

"(A) shall have a right of entry to, upon, or through any premises in which an emission source is located or in which any records required to be maintained under paragraph (1) of this section are located, and

"(B) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under paragraph (1), and sample any emissions which the owner or operator of such source is required to sample under paragraph (1).

"(b)(1) Each State may develop and submit to the Administrator a procedure for carrying out this section in such State. If the Administrator finds the State procedure is adequate, he may delegate to such State any authority he has to carry out this section (except with respect to new sources owned or operated by the United States).

"(2) Nothing in this subsection shall prohibit the Administrator from carrying out this section in a State.

"(c) Any records, reports or information obtained under subsection (a) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof, (other than emission data) to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act."

(b) Section 115 of the Clean Air Act (as so redesignated by subsection (a) of this section) is amended as follows:

(1) Strike out the section heading and inserting in lieu thereof "ABATEMENT BY MEANS OF CONFERENCE PROCEDURE IN CERTAIN CASES".

(2) Insert "and which is covered by subsection (b) or (c)" after "persons" in subsection (a).

(3) Strike out subsections (b), (c), and (k).

(4) Redesignate subsections (d)(1) (A), (B), and (C) as paragraphs (1), (2), and (3) of subsection (b), respectively.

(5) Insert after subsection (b)(3) (as so redesignated) the following:

"(4) A conference may not be called under this subsection with respect to an air pollutant for which (at the time the conference is called) a national primary or secondary ambient air quality standard is in effect under section 109."

(6) Redesignate subsection (d)(1)(D) as subsection (c), and strike out "subparagraph" each place it appears therein and insert in lieu thereof "subsection".

(7) Redesignate subsections (d)(2) and (d)(3) as subsections (d)(1) and (d)(2), respectively.

(8) Strike out "such conference" in subsection (d)(1) (as so redesignated) and inserting in lieu thereof "any conference under this section".

(9) Strike out "under subparagraph (D) of subsection (d)" in subsection (g)(1) and inserting in lieu thereof "subsection (c)".

(10) Add at the end thereof the following new subsection:

"(k) No order or judgment under this section, or settlement, compromise, or agreement respecting any action under this section (whether or not entered or made before the date of enactment of the Clean Air Amendments of 1970) shall relieve any person of any obligation to comply with any requirement of an applicable implementation plan, or with any standard prescribed under section 111 or 112."

(2) Section 103(e) of the Clean Air Act is amended by striking out "section 108(a)" and inserting in lieu thereof "section 115"; and by striking out "subsections (d), (e), and (f) of section 108" and inserting in lieu thereof "subsections (b), (c), (d), (e), and (f) of section 115".

(c) Section 116 of the Clean Air Act (as so redesignated by subsection (a) of this section) is amended to read as follows:

"RETENTION OF STATE AUTHORITY

"SEC. 116. Except as otherwise provided in sections 209, 211(c)(4), and 233 (preempting certain State regulation of moving sources) nothing in this Act shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 111 or 112, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section."

(d) The Clean Air Act is amended by adding at the end of section 117 (as so redesignated by subsection (a) of this section) the following new subsection:

"(f) Prior to—

"(1) issuing criteria for an air pollutant under section 108(a)(2),

"(2) publishing any list under section 111(b)(1)(A) or 112(b)(1)(A),

"(3) publishing any standard under section 111(b)(1)(B) or section 112(b)(1)(B), or

"(4) publishing any regulation under section 202(a),

the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, independent experts, and Federal departments and agencies."

FEDERAL FACILITIES

SEC. 5. Section 118 of the Clean Air Act (as so redesignated by section 4(a) of this Act) is amended to read as follows:

"CONTROL OF POLLUTION FROM FEDERAL FACILITIES

"SEC. 118. Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge of air pollutants, shall comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements. The President may exempt any

emission source of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so, except that no exemption may be granted from section 111, and an exemption from section 112 may be granted only in accordance with section 112(c). No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption."

MOTOR VEHICLE EMISSION STANDARDS

SEC. 6. (a) Section 202 of the Clean Air Act is amended to read as follows:

"ESTABLISHMENT OF STANDARDS

"SEC. 202. (a) Except as otherwise provided in subsection (b)—

"(1) The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment causes or contributes to, or is likely to cause or to contribute to, air pollution which endangers the public health or welfare. Such standards shall be applicable to such vehicles and engines for their useful life (as determined under subsection (d)), whether such vehicles and engines are designed as complete systems or incorporate devices to prevent or control such pollution.

"(2) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(b)(1)(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light duty vehicles and engines manufactured during or after model year 1975 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light duty vehicles and engines manufactured in model year 1970.

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during or after model year 1976 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light duty vehicles manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.

"(2) *Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of enactment of the Clean Air Amendments of 1970) shall be prescribed by regulation within 180 days after such date.*

"(3) *For purposes of this part—*

"(A)(i) *The term 'model year' with reference to any specific calendar year means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year. If the manufacturer has no annual production period, the term 'model year' shall mean the calendar year.*

"(ii) *For the purpose of assuring that vehicles and engines manufactured before the beginning of a model year were not manufactured for purposes of circumventing the effective date of a standard required to be prescribed by subsection (b), the Administrator may prescribe regulations defining 'model year' otherwise than as provided in clause (i).*

"(B) *The term 'light duty vehicles and engines' means new light duty motor vehicles and new light duty motor vehicle engines, as determined under regulations of the Administrator.*

"(4) *On July 1 of 1971, and of each year thereafter, the Administrator shall report to the Congress with respect to the development of systems necessary to implement the emission standards established pursuant to this section. Such reports shall include information regarding the continuing effects of such air pollutants subject to standards under this section on the public health and welfare, the extent and progress of efforts being made to develop the necessary systems, the costs associated with development and application of such systems, and following such hearings as he may deem advisable, any recommendations for additional congressional action necessary to achieve the purposes of this Act. In gathering information for the purposes of this paragraph and in connection with any hearing, the provisions of section 307(a) (relating to subpenas) shall apply.*

"(5)(A) *At any time after January 1, 1972, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A)) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1975.*

"(B) *At any time after January 1, 1973, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(B) with respect to such manufacturer. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by*

paragraph (1)(B)) to emissions of oxides of nitrogen from such vehicles and engines manufactured during model year 1976.

"(C) Any interim standards prescribed under this paragraph shall reflect the greatest degree of emission control which is achievable by application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

"(D) Within 60 days after receipt of the application for any such suspension, and after public hearing, the Administrator shall issue a decision granting or refusing such suspension. The Administrator shall grant such suspension only if he determines that (i) such suspension is essential to the public interest or the public health and welfare of the United States, (ii) all good faith efforts have been made to meet the standards established by this subsection, (iii) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (iv) the study and investigation of the National Academy of Sciences conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available to meet such standards.

"(E) Nothing in this paragraph shall extend the effective date of any emission standard required to be prescribed under this subsection for more than one year.

"(c)(1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the technological feasibility of meeting the emissions standards required to be prescribed by the Administrator by subsection (b) of this section.

"(2) Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

"(3) In entering into any arrangement with the National Academy of Sciences for conducting the study and investigation authorized by paragraph (1) of this subsection, the Administrator shall request the National Academy of Sciences to submit semiannual reports on the progress of its study and investigation to the Administrator and the Congress, beginning not later than July 1, 1971, and continuing until such study and investigation is completed.

"(4) The Administrator shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information, the Administrator may use any authority he has under this Act (A) to obtain information from any person, and (B) to require such person to conduct such tests, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonably necessary to carry out this subsection.

"(d) The Administrator shall prescribe regulations under which the useful life of vehicles and engines shall be determined for purposes of subsection (a)(1) of this section and section 207. Such regulations shall provide that useful life shall—

"(1) in the case of light duty vehicles and light duty vehicle engines, be a period of use of five years or of fifty thousand miles (or the equivalent), whichever first occurs; and

"(2) in the case of any other motor vehicle or motor vehicle engine, be a period of use set forth in paragraph (1) unless the Administrator determines that a period of use of greater duration or mileage is appropriate.

"(e) In the event a new power source or propulsion system for new motor vehicles or new motor vehicle engines is submitted for certification pursuant to section 206(a), the Administrator may postpone certification until he has prescribed standards for any air pollutants emitted by such vehicle or engine which cause or contribute to, or are likely to cause or contribute to, air pollution which endangers the public health or welfare but for which standards have not been prescribed under subsection (a)."

ENFORCEMENT OF MOTOR VEHICLE EMISSION STANDARDS

SEC. 7. (a)(1) Section 203(a)(1) of the Clean Air Act is amended to read as follows:

"(1) in the case of a manufacturer of new motor vehicles or new motor vehicle engines for distribution in commerce, the sale, or the offering for sale, or the introduction, or delivery for introduction, into commerce, or (in the case of any person, except as provided by regulation of the Administrator), the importation into the United States, of any new motor vehicle or new motor vehicle engine, manufactured after the effective date of regulations under this part which are applicable to such vehicle or engine unless such vehicle or engine is covered by a certificate of conformity issued (and in effect) under regulations prescribed under this part (except as provided in subsection (b));"

(2) Section 203(a)(2) of such Act is amended by striking out "section 207" and inserting in lieu thereof "section 208", and by striking out "or" at the end thereof.

(3) Section 203(a)(3) of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", or for any manufacturer or dealer knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or".

(4) Section 203(a) of such Act is amended by inserting at the end thereof the following new paragraph:

" (4) for any manufacturer of a new motor vehicle or new motor vehicle engine subject to standards prescribed under section 202—

" (A) to sell or lease any such vehicle or engine unless such manufacturer has complied with the requirements of section 207(a) and (b) with respect to such vehicle or engine, and unless a label or tag is affixed to such vehicle or engine in accordance with section 207(c)(3), or

" (B) to fail or refuse to comply with the requirements of section 207(c) or (e)."

(5) Section 203(b)(1) of such Act is amended by striking out ", or class thereof, from subsection (a)," and inserting in lieu thereof "from subsection (a)", and by striking out "to protect the public health or welfare,".

(6) Section 203(b)(2) of such Act is amended by striking out "importation by a manufacturer" and inserting in lieu thereof "importation or imported by any person".

(7) Section 203 of the Clean Air Act is amended—

(A) by amending subsection (b)(3) to read as follows:

"(3) A new motor vehicle or new motor vehicle engine intended solely for export, and so labeled or tagged on the outside of the container and on the vehicle or engine itself, shall be subject to the provisions of subsection (a), except that if the country of export has emission standards which differ from the standards prescribed under subsection (a), then such vehicle or engine shall comply with the standards of such country of export."; and

(B) by adding at the end thereof the following new subsection:

"(c) Upon application therefor, the Administrator may exempt from section 203(a)(3) any vehicles (or class thereof) manufactured before the 1974 model year from section 203(a)(3) for the purpose of permitting modifications to the emission control device or system of such vehicle in order to use fuels other than those specified in certification testing under section 206(a)(1), if the Administrator, on the basis of information submitted by the applicant, finds that such modification will not result in such vehicle or engine not complying with standards under section 202 applicable to such vehicle or engine. Any such exemption shall identify (1) the vehicle or vehicles so exempted, (2) the specific nature of the modification, and (3) the person or class of persons to whom the exemption shall apply."

(b) Section 204(a) of such Act is amended by striking out "or (3)" and inserting in lieu thereof "(3), or (4)".

(c) Section 205 of such Act is amended to read as follows:

"PENALTIES

"SEC. 205. Any person who violates paragraph (1), (2), (3), or (4) of section 203(a) shall be subject to a civil penalty of not more than $10,000. Any such violation with respect to paragraph (1), (2), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine."

COMPLIANCE WITH MOTOR VEHICLE EMISSION STANDARDS

SEC. 8. (a) The Clean Air Act is amended by striking out sections 206 and 211; by redesignating sections 207, 208, 209, 210, and 212 as 208, 209, 210, 211, and 213, respectively; and by inserting after section 205 the following new sections:

"MOTOR VEHICLE AND MOTOR VEHICLE ENGINE COMPLIANCE TESTING AND CERTIFICATION

"SEC. 206. (a)(1) The Administrator shall test, or require to be tested in such manner as he deems appropriate, any new motor vehicle or new motor vehicle engine submitted by a manufacturer to determine whether such vehicle or engine conforms with the regulations prescribed under section 202 of this Act. If such vehicle or engine conforms to such regulations, the Administrator shall issue a certificate of conformity upon such terms, and for such period (not in excess of one year), as he may prescribe.

"(2) The Administrator shall test any emission control system incorporated in a motor vehicle or motor vehicle engine submitted to him by any person, in order to determine whether such system enables such vehicle or engine to conform to the standards required to be prescribed under section 202(b) of this Act. If the Administrator finds on the basis of such

tests that such vehicle or engine conforms to such standards, the Administrator shall issue a verification of compliance with emission standards for such system when incorporated in vehicles of a class of which the tested vehicle is representative. He shall inform manufacturers and the National Academy of Sciences, and make available to the public, the results of such tests. Tests under this paragraph shall be conducted under such terms and conditions (including requirements for preliminary testing by qualified independent laboratories) as the Administrator may prescribe by regulations.

"(b)(1) In order to determine whether new motor vehicles or new motor vehicle engines being manufactured by a manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued, the Administrator is authorized to test such vehicles or engines. Such tests may be conducted by the Administrator directly or, in accordance with conditions specified by the Administrator, by the manufacturer.

"(2)(A)(i) If, based on tests conducted under paragraph (1) on a sample of new vehicles or engines covered by a certificate of conformity, the Administrator determines that all or part of the vehicles or engines so covered do not conform with the regulations with respect to which the certificate of conformity was issued, he may suspend or revoke such certificate in whole or in part, and shall so notify the manufacturer. Such suspension or revocation shall apply in the case of any new motor vehicles or new motor vehicle engines manufactured after the date of such notification (or manufactured before such date if still in the hands of the manufacturer), and shall apply until such time as the Administrator finds that vehicles and engines manufactured by the manufacturer do conform to such regulations. If, during any period of suspension or revocation, the Administrator finds that a vehicle or engine actually conforms to such regulations, he shall issue a certificate of conformity applicable to such vehicle or engine.

"(ii) If, based on tests conducted under paragraph (1) on any new vehicle or engine, the Administrator determines that such vehicle or engine does not conform with such regulations, he may suspend or revoke such certificate insofar as it applies to such vehicle or engine until such time as he finds such vehicle or engine actually so conforms with such regulations, and he shall so notify the manufacturer.

"(B)(i) At the request of any manufacturer the Administrator shall grant such manufacturer a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied, and make a determination on the record with respect to any suspension or revocation under subparagraph (A); but suspension or revocation under subparagraph (A) shall not be stayed by reason of such hearing.

"(ii) In any case of actual controversy as to the validity of any determination under clause (i), the manufacturer may at any time prior to the 60th day after such determination is made file a petition with the United States court of appeals for the circuit wherein such manufacturer resides or has his principal place of business for a judicial review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or other officer designated by him for that purpose. The Administrator thereupon shall file in the court the record of the proceedings on which the Administrator based his determination, as provided in section 2112 of title 28 of the United States Code.

"(iii) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional

evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"(iv) Upon the filing of the petition referred to in clause (ii), the court shall have jurisdiction to review the order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

"(c) For purposes of enforcement of this section, officers or employees duly designated by the Administrator, upon presenting appropriate credentials to the manufacturer or person in charge, are authorized (1) to enter, at reasonable times, any plant or other establishment of such manufacturer, for the purpose of conducting tests of vehicles or engines in the hands of the manufacturer, or (2) to inspect at reasonable times, records, files, papers, processes, controls, and facilities used by such manufacturer in conducting tests under regulations of the Administrator. Each such inspection shall be commenced and completed with reasonable promptness.

"(d) The Administrator shall by regulation establish methods and procedures for making tests under this section.

"(e) The Administrator shall announce in the Federal Register and make available to the public the results of his tests of any motor vehicle or motor vehicle engine submitted by a manufacturer under subsection (a) as promptly as possible after the enactment of the Clean Air Amendments of 1970 and at the beginning of each model year which begins thereafter. Such results shall be described in such nontechnical manner as will reasonably disclose to prospective ultimate purchasers of new motor vehicles and new motor vehicle engines the comparative performance of the vehicles and engines tested in meeting the standards prescribed under section 202 of this Act.

"COMPLIANCE BY VEHICLES AND ENGINES IN ACTUAL USE

"SEC. 207. (a) Effective with respect to vehicles and engines manufactured in model years beginning more than 60 days after the date of the enactment of the Clean Air Act Amendments of 1970, the manufacturer of each new motor vehicle and new motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that such vehicle or engine is (1) designed, built, and equipped so as to conform at the time of sale with applicable regulations under section 202, and (2) free from defects in materials and workmanship which cause such vehicle or engine to fail to conform with applicable regulations for its useful life (as determined under section 202(d)).

"(b) If the Administrator determines that (i) there are available testing methods and procedures to ascertain whether, when in actual use throughout its useful life (as determined under section 202(d)), each vehicle and engine to which regulations under section 202 apply complies with the emission standards of such regulations, (ii) such methods and procedures

are in accordance with good engineering practices, and (iii) such methods and procedures are reasonably capable of being correlated with tests conducted under section 206(a)(1), then—

"(1) he shall establish such methods and procedures by regulation, and

"(2) at such time as he determines that inspection facilities or equipment are available for purposes of carrying out testing methods and procedures established under paragraph (1), he shall prescribe regulations which shall require manufacturers to warrant the emission control device or system of each new motor vehicle or new motor vehicle engine to which a regulation under section 202 applies and which is manufactured in a model year beginning after the Administrator first prescribes warranty regulations under this paragraph (2). The warranty under such regulations shall run to the ultimate purchaser and each subsequent purchaser and shall provide that if—

"(A) the vehicle or engine is maintained and operated in accordance with instructions under subsection 7(c)(3),

"(B) it fails to conform at any time during its useful life (as determined under section 202(d)) to the regulations prescribed under section 202, and

"(C) such nonconformity results in the ultimate purchaser (or any subsequent purchaser) of such vehicle or engine having to bear any penalty or other sanction (including the denial of the right to use such vehicle or engine) under State or Federal law,

then such manufacturer shall remedy such nonconformity under such warranty with the cost thereof to be borne by the manufacturer.

"(c) Effective with respect to vehicles and engines manufactured during model years beginning more than 60 days after the date of enactment of the Clean Air Amendments of 1970—

"(1) If the Administrator determines that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 202, when in actual use throughout their useful life (as determined under section 202(d)), he shall immediately notify the manufacturer thereof of such nonconformity, and he shall require the manufacturer to submit a plan for remedying the nonconformity of the vehicles or engines with respect to which such notification is given. The plan shall provide that the nonconformity of any such vehicles or engines which are properly used and maintained will be remedied at the expense of the manufacturer. If the manufacturer disagrees with such determination of nonconformity and so advises the Administrator, the Administrator shall afford the manufacturer and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing. Unless, as a result of such hearing the Administrator withdraws such determination of nonconformity, he shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt notification of such nonconformity in accordance with paragraph (2).

"(2) Any notification required by paragraph (1) with respect to any class or category of vehicles or engines shall be given to dealers, ultimate purchasers, and subsequent purchasers (if known) in such manner and containing such information as the Administrator may by regulations require.

"(3) The manufacturer shall furnish with each new motor vehicle or motor vehicle engine such written instructions for the maintenance and use of the vehicle or engine by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control devices and systems. In addition, the manufacturer shall indicate by means of a label or tag permanently affixed to such vehicle or engine that such vehicle or engine is covered by a certificate of conformity issued for the purpose of assuring achievement of emissions standards prescribed under section 202. Such label or tag shall contain such other information relating to control of motor vehicle emissions as the Administrator shall prescribe by regulation.

"(d) Any cost obligation of any dealer incurred as a result of any requirement imposed by subsection (a), (b), or (c) shall be borne by the manufacturer. The transfer of any such cost obligation from a manufacturer to any dealer through franchise or other agreement is prohibited.

"If a manufacturer includes in any advertisement a statement respecting the cost or value of emission control devices or systems, such manufacturer shall set forth in such statement the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The Secretary of Labor and his representatives, shall have the same access for this purpose to the books, documents, papers, and records of a manufacturer as the Comptroller General has to those of a recipient of assistance for purposes of section 311.

"(f) Any inspection of a motor vehicle or a motor vehicle engine for purposes of subsection (c)(1), after its sale to the ultimate purchaser, shall be made only if the owner of such vehicle or engine voluntarily permits such inspection to be made, except as may be provided by any State or local inspection program."

(b) The amendments made by this section shall not apply to vehicles or engines imported into the United States before the sixtieth day after the date of enactment of this Act.

REGULATION OF FUELS

SEC. 9. (a) Section 211 of the Clean Air Act (as so redesignated by section 8) is amended to read as follows:

"REGULATION OF FUELS

"SEC. 211. (a) The Administrator may by regulation designate any fuel or fuel additive and, after such date or dates as may be prescribed by him, no manufacturer or processor of any such fuel or additive may sell, offer for sale, or introduce into commerce such fuel or additive unless the Administrator has registered such fuel or additive in accordance with subsection (b) of this section.

"(b)(1) For the purpose of registration of fuels and fuel additives, the Administrator shall require—

"(A) the manufacturer of any fuel to notify him as to the commercial identifying name and manufacturer of any additive contained in such fuel; the range of concentration of any additive in the fuel; and the purpose-in-use of any such additive; and

"(B) the manufacturer of any additive to notify him as to the chemical composition of such additive.

"(2) For the purpose of registration of fuels and fuel additives, the Administrator may also require the manufacturer of any fuel or fuel additive—

"(A) to conduct tests to determine potential public health effects of such fuel or additive (including, but not limited to, carcinogenic, teratogenic, or mutagenic effects), and

"(B) to furnish the description of any analytical technique that can be used to detect and measure any additive in such fuel, the recommended range of concentration of such additive, and the recommended purpose-in-use of such additive, and such other information as is reasonable and necessary to determine the emissions resulting from the use of the fuel or additive contained in such fuel, the effect of such fuel or additive on the emission control performance of any vehicle or vehicle engine, or the extent to which such emissions affect the public health or welfare.

Tests under subparagraph (A) shall be conducted in conformity with test procedures and protocols established by the Administrator. The result of such tests shall not be considered confidential.

"(3) Upon compliance with the provision of this subsection, including assurances that the Administrator will receive changes in the information required, the Administrator shall register such fuel or fuel additive.

"(c)(1) The Administrator may, from time to time on the basis of information obtained under subsection (b) of this section or other information available to him, by regulation, control or prohibit the manufacture, introduction into commerce, offering for sale, or sale of any fuel or fuel additive for use in a motor vehicle or motor vehicle engine (A) if any emission products of such fuel or fuel additive will endanger the public health or welfare, or (B) if emission products of such fuel or fuel additive will impair to a significant degree the performance of any emission control device or system which is in general use, or which the Administrator finds has been developed to a point where in a reasonable time it would be in general use were such regulation to be promulgated.

"(2)(A) No fuel, class of fuels, or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (A) of paragraph (1) except after consideration of all relevant medical and scientific evidence available to him, including consideration of other technologically or economically feasible means of achieving emission standards under section 202.

"(B) No fuel or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (B) of paragraph (1) except after consideration of available scientific and economic data, including a cost benefit analysis comparing emission control devices or systems which are or will be in general use and require the proposed control or prohibition with emission control devices or systems which are or will be in general use and do not require the proposed control or prohibition. On request of a manufacturer of motor vehicles, motor vehicle engines, fuels, or fuel additives submitted within 10 days of notice of proposed rulemaking, the Administrator shall hold a public hearing and publish findings with respect to any matter he is required to consider under this subparagraph. Such findings shall be published at the time of promulgation of final regulations.

"(C) No fuel or fuel additive may be prohibited by the Administrator under paragraph (1) unless he finds, and publishes such finding, that in his judgment such prohibition will not cause the use of any other fuel or fuel additive which will produce emissions which will endanger the public health or welfare to the same or greater degree than the use of the fuel or fuel additive proposed to be prohibited.

"(3) (A) For the purpose of evidence and data to carry out paragraph (2), the Administrator may require the manufacturer of any motor vehicle or motor vehicle engine to furnish any information which has been developed concerning the emissions from motor vehicles resulting from the use of any fuel or fuel additive, or the effect of such use on the performance of any emission control device or system.

"(B) In obtaining information under subparagraph (A), section 307(a) (relating to subpenas) shall be applicable.

"(4)(A) Except as otherwise provided in subparagraph (B) or (C), no State (or political subdivision thereof) may prescribe or attempt to enforce, for purposes of motor vehicle emission control, any control or prohibition respecting use of a fuel or fuel additive in a motor vehicle or motor vehicle engine—

"(i) if the Administrator has found that no control or prohibition under paragraph (1) is necessary and has published his finding in the Federal Register, or

"(ii) if the Administrator has prescribed under paragraph (1) a control or prohibition applicable to such fuel or fuel additive, unless State prohibition or control is identical to the prohibition or control prescribed by the Administrator.

"(B) Any State for which application of section 209(a) has at any time been waived under section 209(b) may at any time prescribe and enforce, for the purpose of motor vehicle emission control, a control or prohibition respecting any fuel or fuel additive.

"(C) A State may prescribe and enforce, for purposes of motor vehicle emission control, a control or prohibition respecting the use of a fuel or fuel additive in a motor vehicle or motor vehicle engine if an applicable implementation plan for such State under section 110 so provides. The Administrator may approve such provision in an implementation plan, or promulgate an implementation plan containing such a provision, only if he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements.

"(d) Any person who violates subsection (a) or the regulations prescribed under subsection (c) or who fails to furnish any information required by the Administrator under subsection (c) shall forfeit and pay to the United States a civil penalty of $10,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district where such person has his principal office or in any district in which he does business. The Administrator may, upon application therefor, remit or mitigate any forfeiture provided for in this subsection and he shall have authority to determine the facts upon all such applications."

OTHER AMENDMENTS TO TITLE II

SEC. 10. (a) The first sentence of section 208(b) of the Clean Air Act (as so redesignated by section 8 of this Act) is amended to read as follows: "Any records, reports or information obtained under subsection (a) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than emission data), to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Ad-

ministrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act."

(b) Section 210 of such Act (as so redesignated by section 8 of this Act) is amended to read as follows:

"STATE GRANTS

"SEC. 210. The Administrator is authorized to make grants to appropriate State agencies in an amount up to two-thirds of the cost of developing and maintaining effective vehicle emission devices and systems inspection and emission testing and control programs, except that—

"(1) no such grant shall be made for any part of any State vehicle inspection program which does not directly relate to the cost of the air pollution control aspects of such a program;

"(2) no such grant shall be made unless the Secretary of Transportation has certified to the Administrator that such program is consistent with any highway safety program developed pursuant to section 402 of title 23 of the United States Code; and

"(3) no such grant shall be made unless the program includes provisions designed to insure that emission control devices and systems on vehicles in actual use have not been discontinued or rendered inoperative."

(c) Title II of the Clean Air Act is amended by inserting after section 211 (as so redesignated by section 8) the following new section:

"DEVELOPMENT OF LOW-EMISSION VEHICLES

"SEC. 212. (a) For the purpose of this section—

"(1) The term 'Board' means the Low-Emission Vehicle Certification Board.

"(2) The term 'Federal Government' includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia.

"(3) The term 'motor vehicle' means any self-propelled vehicle designed for use in the United States on the highways, other than a vehicle designed or used for military field training, combat, or tactical purposes.

"(4) The term 'low-emission vehicle' means any motor vehicle which—

"(A) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under section 202 at the time of procurement to that type of vehicle; and

"(B) with respect to all other air pollutants meets the new motor vehicle standards applicable under section 202 at the time of procurement to that type of vehicle.

"(5) The term 'retail price' means (A) the maximum statutory price applicable to any class or model of motor vehicle; or (B) in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any class or model of motor vehicle.

"(b)(1) There is established a Low-Emission Vehicle Certification Board to be composed of the Administrator or his designee, the Secretary of

Transportation or his designee, the Chairman of the Council on Environmental Quality or his designee, the Director of the National Highway Safety Bureau in the Department of Transportation, the Administrator of General Services, and two members appointed by the President. The President shall designate one member of the Board as Chairman.

"(2) Any member of the Board not employed by the United States may receive compensation at the rate of $125 for each day such member is engaged upon work of the Board. Each member of the Board shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3)(A) The Chairman, with the concurrence of the members of the Board, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Board, but no individual so appointed shall receive compensation in excess of the rate authorized for GS–18 by section 5332 of title 5, United States Code.

"(B) The Chairman may fix the time and place of such meetings as may be required, but a meeting of the Board shall be called whenever a majority of its members so request.

"(C) The Board is granted all other powers necessary for meeting its responsibilities under this section.

"(c) The Administrator shall determine which models or classes of motor vehicles qualify as low-emission vehicles in accordance with the provisions of this section.

"(d)(1) The Board shall certify any class or model of motor vehicles—

"(A) for which a certification application has been filed in accordance with paragraph (3) of this subsection;

"(B) which is a low-emission vehicle as determined by the Administrator; and

"(C) which it determines is suitable for use as a substitute for a class or model of vehicles at that time in use by agencies of the Federal Government.

The Board shall specify with particularity the class or model of vehicles for which the class or model of vehicles described in the application is a suitable substitute. In making the determination under this subsection the Board shall consider the following criteria:

"(i) the safety of the vehicle;

"(ii) its performance characteristics;

"(iii) its reliability potential;

"(iv) its serviceability;

"(v) its fuel availability;

"(vi) its noise level; and

"(vii) its maintenance costs as compared with the class or model of motor vehicle for which it may be a suitable substitute.

"(2) Certification under this section shall be effective for a period of one year from the date of issuance.

"(3)(A) Any party seeking to have a class or model of vehicle certified under this section shall file a certification application in accordance with regulations prescribed by the Board.

"(B) The Board shall publish a notice of each application received in the Federal Register.

"(C) The Administrator and the Board shall make determinations for the purpose of this section in accordance with procedures prescribed by regulation by the Administrator and the Board, respectively.

"(D) The Administrator and the Board shall conduct whatever investigation is necessary, including actual inspection of the vehicle at a place designated in regulations prescribed under subparagraph (A).

"(E) The Board shall receive and evaluate written comments and documents from interested parties in support of, or in opposition to, certification of the class or model of vehicle under consideration.

"(F) Within 90 days after the receipt of a properly filed certification application, the Administrator shall determine whether such class or model of vehicle is a low-emission vehicle, and within 180 days of such determination, the Board shall reach a decision by majority vote as to whether such class or model of vehicle, having been determined to be a low-emission vehicle, is a suitable substitute for any class or classes of vehicles presently being purchased by the Federal Government for use by its agencies.

"(G) Immediately upon making any determination or decision under subparagraph (F), the Administrator and the Board shall each publish in the Federal Register notice of such determination or decision, including reasons therefor and in the case of the Board any dissenting views.

"(e)(1) Certified low-emission vehicles shall be acquired by purchase or lease by the Federal Government for use by the Federal Government in lieu of other vehicles if the Administrator of General Services determines that such certified vehicles have procurement costs which are no more than 150 per centum of the retail price of the least expensive class or model of motor vehicle for which they are certified substitutes.

"(2) In order to encourage development of inherently low-polluting propulsion technology, the Board may, at its discretion, raise the premium set forth in paragraph (1) of this subsection to 200 per centum of the retail price of any class or model of motor vehicle for which a certified low-emission vehicle is a certified substitute, if the Board determines that the certified low-emission vehicle is powered by an inherently low-polluting propulsion system.

"(3) Data relied upon by the Board and the Administrator in determining that a vehicle is a certified low-emission vehicle shall be incorporated in any contract for the procurement of such vehicle.

"(f) The procuring agency shall be required to purchase available certified low-emission vehicles which are eligible for purchase to the extent they are available before purchasing any other vehicles for which any low-emission vehicle is a certified substitute. In making purchasing selections between competing eligible certified low-emission vehicles, the procuring agency shall give priority to (1) any class or model which does not require extensive periodic maintenance to retain its low-polluting qualities or which does not require the use of fuels which are more expensive than those of the classes or models of vehicles for which it is a certified substitute; and (2) passenger vehicles other than buses.

"(g) For the purpose of procuring certified low-emission vehicles any statutory price limitations shall be waived.

"(h) The Administrator shall, from time to time as the Board deems appropriate, test the emissions from certified low-emission vehicles purchased by the Federal Government. If at any time he finds that the emission rates exceed the rates on which certification under this section was based, the Administrator shall notify the Board. Thereupon the Board shall give the supplier of such vehicles written notice of this finding, issue public notice of it, and give the supplier an opportunity to make necessary repairs, adjustments, or replacements. If no such repairs, adjust-

ments, or replacements are made within a period to be set by the Board, the Board may order the supplier to show cause why the vehicle involved should be eligible for recertification.

"(i) There are authorized to be appropriated for paying additional amounts for motor vehicles pursuant to, and for carrying out the provisions of, this section, $5,000,000 for the fiscal year ending June 30, 1971, and $25,000,000 for each of the two succeeding fiscal years.

"(j) The Board shall promulgate the procedures required to implement this section within one hundred and eighty days after the date of enactment of the Clean Air Amendments of 1970."

(d)(1) Paragraph (1) of section 213 of the Clean Air Act (as so redesignated by section 8) is amended by inserting "202," immediately before "203,".

(2) Paragraph (3) of such section 213 is amended by striking out "The" and inserting in lieu thereof "Except with respect to vehicles or engines imported or offered for importation, the"; and by adding before the period at the end thereof "; and with respect to imported vehicles or engines, such terms mean a motor vehicle and engine, respectively, manufactured after the effective date of a regulation issued under section 202 which is applicable to such vehicle or engine (or which would be applicable to such vehicle or engine had it been manufactured for importation into the United States)".

EMISSION STANDARDS FOR AIRCRAFT

SEC. 11. (a)(1) Title II of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART B—AIRCRAFT EMISSION STANDARDS

"ESTABLISHMENT OF STANDARDS

"SEC. 231. (a)(1) Within 90 days after the date of enactment of the Clean Air Amendments of 1970, the Administrator shall commence a study and investigation of emissions of air pollutants from aircraft in order to determine—

"(A) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

"(B) the technological feasibility of controlling such emissions.

"(2) Within 180 days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall issue proposed emission standards applicable to emissions of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare.

"(3) The Administrator shall hold public hearings with respect to such proposed standards. Such hearings shall, to the extent practicable, be held in air quality control regions which are most seriously affected by aircraft emissions. Within 90 days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

"(b) Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds

necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(c) Any regulations under this section, or amendments thereto, with respect to aircraft, shall be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration or aircraft safety.

"ENFORCEMENT OF STANDARDS

"SEC. 232. (a) The Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 231 by the Administrator. The regulations of the Secretary of Transportation shall include provisions making such standards applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act or the Department of Transportation Act. Such Secretary shall insure that all necessary inspections are accomplished, and, may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"(b) In any action to amend, modify, suspend, or revoke a certificate in which violation of an emission standard prescribed under section 231 or of a regulation prescribed under subsection (a) is at issue, the certificate holder shall have the same notice and appeal rights as are prescribed for such holders in the Federal Aviation Act of 1958 or the Department of Transportation Act, except that in any appeal to the National Transportation Safety Board, the Board may amend, modify, or revoke the order of the Secretary of Transportation only if it finds no violation of such standard or regulation and that such amendment, modification, or revocation is consistent with safety in air transportation.

"STATE STANDARDS AND CONTROLS

"SEC. 233. No State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any aircraft or engine thereof unless such standard is identical to a standard applicable to such aircraft under this part.

"DEFINITIONS

"SEC. 234. Terms used in this part (other than Administrator) shall have the same meaning as such terms have under section 101 of the Federal Aviation Act of 1958."

(2) Title II of the Clean Air Act is amended—

(A) by striking out "this title" wherever it appears in sections 202 through 213 and inserting in lieu thereof "this part";

(B) by striking out "TITLE II" in the heading for section 213 (as so redesignated by section 8 of this Act) and inserting in lieu thereof "PART A";

(C) by amending the heading for title II to read as follows: "TITLE II—EMISSION STANDARDS FOR MOVING SOURCES"; and

(D) by inserting after section 201 the following:

"PART A—MOTOR VEHICLE EMISSION AND FUEL STANDARDS".

(b)(1) Section 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1421) is amended by adding at the end thereof the following new subsection:

"AVIATION FUEL STANDARDS

"(d) The Administrator shall prescribe, and from time to time revise, regulations (1) establishing standards governing the composition or the chemical or physical properties of any aircraft fuel or fuel additive for the purpose of controlling or eliminating aircraft emissions which the Administrator of the Environmental Protection Agency (pursuant to section 231 of the Clean Air Act) determines endanger the public health or welfare, and (2) providing for the implementation and enforcement of such standards."

(2) Section 610(a) of such Act (49 U.S.C. 1430(a)) is amended by striking out "and" at the end of paragraph (7); by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and" and by adding after paragraph (8) the following new paragraph:

"(9) For any person to manufacture, deliver, sell, or offer for sale, any aviation fuel or fuel additive in violation of any regulation prescribed under section 601(d)."

(3) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 601. General Safety Powers and Duties."

is amended by adding at the end thereof the following:

"(d) Aviation fuel standards.".

GENERAL PROVISIONS

SEC. 12. (a) The Clean Air Act is amended by redesignating sections 303 through 310 as sections 310 through 317, and by inserting after section 302 the following new sections:

"EMERGENCY POWERS

"SEC. 303. Notwithstanding any other provision of this Act, the Administrator, upon receipt of evidence that a pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to the health of persons, and that appropriate State or local authorities have not acted to abate such sources, may bring suit on behalf of the United States in the appropriate United States district court to immediately restrain any person causing or contributing to the alleged pollution to stop the emission of air pollutants causing or contributing to such pollution or to take such other action as may be necessary.

"CITIZEN SUITS

"SEC. 304. (a) Except as provided in subsection (b), any person may commence a civil action on his own behalf—

"(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to be in violation of (A) an emission standard or limitation

under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an emission standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be.

"(b) No action may be commenced—

"(1) under subsection (a)(1)—

"(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the State in which the violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

"(B) if the Administrator or State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any person may intervene as a matter of right.

"(2) under subsection (a)(2) prior to 60 days after the plaintiff has given notice of such action to the Administrator,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of section 112(c)(1)(B) or an order issued by the Administrator pursuant to section 113(a). Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c)(1) Any action respecting a violation by a stationary source of an emission standard or limitation or an order respecting such standard or limitation may be brought only in the judicial district in which such source is located.

"(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any emission standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

"(f) For purposes of this section, the term 'emission standard or limitation under this Act' means—

"(1) a schedule or timetable of compliance, emission limitation, standard of performance or emission standard, or

"(2) a control or prohibition respecting a motor vehicle fuel or fuel additive,

which is in effect under this Act (including a requirement applicable by reason of section 118) or under an applicableimplementation plan.

"APPEARANCE

"SEC. 305. The Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator that he will appear in such action, within a reasonable time attorneys appointed by the Administrator shall appear and represent him.

"FEDERAL PROCUREMENT

"SEC. 306. (a) No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c)(1) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

"(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

"(e) The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section.

"GENERAL PROVISION RELATING TO ADMINISTRATIVE PROCEEDINGS AND JUDICIAL REVIEW

"SEC. 307. (a)(1). In connection with any determination under section 110(f) or section 202(b)(5), or for the purposes of obtaining information under section 202(b)(4) or 210(c)(4), the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for emission data, upon a showing satisfactory to the Administrator by such owner or operator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes of such owner or operator, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document,

or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, to persons carrying out the National Academy of Sciences' study and investigation provided for in section 202(c), or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subparagraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b)(1) A petition for review of action of the Administrator in promulgating any national primary or secondary ambient air quality standard, any emission standard under section 112, any standard of performance under section 111, any standard under section 202 (other than a standard required to be prescribed under section 202(b)(1)), any determination under section 202(b)(5), any control or prohibition under section 211, or any standard under section 231 may be filed only in the United States Court of Appeals for the District of Columbia. A petition for review of the Administrator's action in approving or promulgating any implementation plan under section 110 or section 111(d) may be filed only in the United States Court of Appeals for the appropriate circuit. Any such petition shall be filed within 30 days from the date of such promulgation or approval, or after such date if such petition is based solely on grounds arising after such 30th day.

"(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in civil or criminal proceedings for enforcement.

"(c) In any judicial proceeding in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as to the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"MANDATORY LICENSING

"SEC. 308. Whenever the Attorney General determines, upon application of the Administrator—

"(1) that—

"(A) in the implementation of the requirements of section 111, 112, or 202 of this Act, a right under any United States letters patent, which is being used or intended for public or

commercial use and not otherwise reasonably available, is necessary to enable any person required to comply with such limitation to so comply, and

"(B) There are no reasonable alternative methods to accomplish such purpose, and

"(2) that the unavailability of such right may result in a substantial lessening of competition or tendency to create a monopoly in any line of commerce in any section of the country,

the Attorney General may so certify to a district court of the United States, which may issue an order requiring the person who owns such patent to license it on such reasonable terms and conditions as the court, after hearing, may determine. Such certification may be made to the district court for the district in which the person owning the patent resides, does business, or is found.

"POLICY REVIEW

"SEC. 309. (a) The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 102(2)(C) of Public Law 91–190 applies, and (3) proposed regulations published by any department or agency of the Federal Government. Such written comment shall be made public at the conclusion of any such review.

"(b) In the event the Administrator determines that any such legislation, action, or regulation is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

APPROPRIATIONS

SEC. 13. (a) Section 104(c) of the Clean Air Act is amended to read as follows:

"(c) For the purposes of this section there are authorized to be appropriated $75,000,000 for the fiscal year ending June 30, 1971, $125,000,000 for the fiscal year ending June 30, 1972, and $150,000,000 for the fiscal year ending June 30, 1973. Amounts appropriated pursuant to this subsection shall remain available until expended."

(b) Section 316 of the Clean Air Act (as redesignated by section 12 of this Act) is amended to read as follows:

"APPROPRIATIONS

"SEC. 316. There are authorized to be appropriated to carry out this Act, other than sections 103(f)(3) and (d), 104, 212, and 403, $125,000,000 for the fiscal year ending June 30, 1971, $225,000,000 for the fiscal year ending June 30, 1972, and $300,000,000 for the fiscal year ending June 30, 1973."

SEC. 14. The Clean Air Act is amended by adding at the end thereof a new title to read as follows:

"TITLE IV—NOISE POLLUTION

"SEC. 401. This title may be cited as the 'Noise Pollution and Abatement Act of 1970'.

"SEC. 402. (a) The Administrator shall establish within the Environmental Protection Agency an Office of Noise Abatement and Control, and shall carry out through such Office a full and complete investigation and study of noise and its effect on the public health and welfare in order to (1) identify and classify causes and sources of noise, and (2) determine—

"(A) effects at various levels;

"(B) projected growth of noise levels in urban areas through the year 2000;

"(C) the psychological and physiological effect on humans;

"(D) effects of sporadic extreme noise (such as jet noise near airports) as compared with constant noise;

"(E) effect on wildlife and property (including values);

"(F) effect of sonic booms on property (including values); and

"(G) such other matters as may be of interest in the public welfare.

"(b) In conducting such investigation, the Administrator shall hold public hearings, conduct research, experiments, demonstrations, and studies. The Administrator shall report the results of such investigation and study, together with his recommendations for legislation or other action, to the President and the Congress not later than one year after the date of enactment of this title.

"(c) In any case where any Federal department or agency is carrying out or sponsoring any activity resulting in noise which the Administrator determines amounts to a public nuisance or is otherwise objectionable, such department or agency shall consult with the Administrator to determine possible means of abating such noise.

"SEC. 403. There is authorized to be appropriated such amount, not to exceed $30,000,000, as may be necessary for the purposes of this title."

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 15. (a)(1) Section 302 of the Clean Air Act is amended by striking out subsection (g) and inserting in lieu thereof the following:

"(g) The term 'air pollutant' means an air pollution agent or combination of such agents.

"(h) All language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being."

(2) Section 103(c) of the Clean Air Act is amended by striking out "air pollution agents (or combinations of agents)" and inserting in lieu thereof "air pollutants".

(b)(1) Subject to such requirements as the Civil Service Commission may prescribe, any commissioned officer of the Public Health Service (other than an officer who retires under section 211 of the Public Health Service Act after his election but prior to his transfer pursuant to this paragraph and paragraph (2)) who, upon the day before the effective

date of Reorganization Plan Numbered 3 of 1970 (hereinafter in this subsection referred to as the "plan"), is serving as such officer (A) primarily in the performance of functions transferred by such plan to the Environmental Protection Agency or its Administrator (hereinafter in this subsection referred to as the "Agency" and the "Administrator", respectively), may, if such officer so elects, acquire competitive status and be transferred to a competitive position in the Agency; or (B) primarily in the performance of functions determined by the Secretary of Health, Education, and Welfare (hereinafter in this subsection referred to as the "Secretary") to be materially related to the functions so transferred, may, if authorized by agreement between the Secretary and the Administrator, and if such officer so elects, acquire such status and be so transferred.

(2) An election pursuant to paragraph (1) shall be effective only if made, in accordance with such procedures as may be prescribed by the Civil Service Commission (A) before the close of the 24th month after the effective date of the plan, or (B) in the case of a commissioned officer who would be liable for training and service under the Military Selective Service Act of 1967 but for the operation of section 6(b)(3) thereof (50 U.S.C. App. 456(b)(3)), before (if it occurs later then the close of such 24th month) the close of the 90th day after the day upon which he has completed his 24th month of service as such officer.

(3)(A) Except as provided in subparagraph (B), any commissioned officer of the Public Health Service who, pursuant to paragraphs (1) and (2), elects to transfer to a position in the Agency which is subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code (hereinafter in this subsection referred to as the "transferring officer"), shall receive a pay rate of the General Schedule grade of such position which is not less than the sum of the following amounts computed as of the day preceding the date of such election:

(i) the basic pay, the special pay, the continuation pay, and the subsistence and quarters allowances, to which he is annually entitled as a commissioned officer of the Public Health Service pursuant to title 37, United States Code;

(ii) the amount of Federal income tax, as determined by estimate of the Secretary, which the transferring officer, had he remained a commissioned officer, would have been required to pay on his subsistence and quarters allowances for the taxable year then current if they had not been tax free;

(iii) an amount equal to the biweekly average cost of the coverages designated "high option, self and family" under the Government-wide Federal employee health benefits program plans, multiplied by twenty-six; and

(iv) an amount equal to 7 per centum of the sum of the amounts determined under clauses (i) through (iii), inclusive.

(B) A transferring officer shall in no event receive, pursuant to subparagraph (A), a pay rate in excess of the maximum rate applicable under the General Schedule to the class of position, as established under chapter 51 of title 5, United States Code, to which such officer is transferred pursuant to paragraphs (1) and (2).

(4)(A) A transferring officer shall be credited, on the day of his transfer pursuant to his election under paragraphs (1) and (2), with one hour of sick leave for each week of active service, as defined by section 211(d) of the Public Health Service Act.

(B) The annual leave to the credit of a transferring officer on the day before the day of his transfer, shall, on such day of transfer, be transferred to his credit in the Agency on an adjusted basis under regulations prescribed by the Civil Service Commission. The portion of such leave, if any, that is in excess of the sum of (i) 240 hours, and (ii) the number of hours that have accrued to the credit of the transferring officer during the calendar year then current and which remain unused, shall thereafter remain to his credit until used, and shall be reduced in the manner described by subsection (c) of section 6304 of title 5, United States Code.

(5) A transferring officer who is required to change his official station as a result of his transfer under this subsection shall be paid such travel, transportation, and related expenses and allowances, as would be provided pursuant to subchapter II of chapter 57 of title 5, United States Code, in the case of a civilian employee so transferred in the interest of the Government. Such officer shall not (either at the time of such transfer or upon a subsequent separation from the competitive service) be deemed to have separated from, or changed permanent station within, a uniformed service for purposes of section 404 of title 37, United States Code.

(6) Each transferring officer who prior to January 1, 1958, was insured pursuant to the Federal Employees' Group Life Insurance Act of 1954, and who subsequently waived such insurance, shall be entitled to become insured under chapter 87 of title 5, United States Code, upon his transfer to the Agency regardless of age and insurability.

(7)(A) Effective as of the date a transferring officer acquires competitive status as an employee of the Agency, there shall be considered as the civilian service of such officer for all purposes of chapter 83, title 5, United States Code, (i) his active service as defined by section 211(d) of the Public Health Service Act, or (ii) any period for which he would have been entitled, upon his retirement as a commissioned officer of the Public Health Service, to receive retired pay pursuant to section 211(a)(4)(B) of such Act; however, no transferring officer may become entitled to benefits under both subchapter III of such chapter and title II of the Social Security Act based on service as such a commissioned officer performed after 1956, but the individual (or his survivors) may irrevocably elect to waive benefit credit for the service under one such law to secure credit under the other.

(B) A transferring officer on whose behalf a deposit is required to be made by subparagraph (c) and who, after transfer to a competitive position in the Agency under paragraphs (1) and (2), is separated from Federal service or transfers to a position not covered by subchapter III of chapter 83 of title 5, United States Code, shall not be entitled, nor shall his survivors be entitled, to a refund of any amount deposited on his behalf in accordance with this section. In the event he transfers, after transfer under paragraphs (1) and (2), to a position covered by another Government staff requirement system under which credit is allowable for service with respect to which a deposit is required under subparagraph (c), no credit shall be allowed under such subchapter III with respect to such service.

(C) The Secretary shall deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, on behalf of and to the credit of such transferring officer, an amount equal to that which such individual would be required to deposit in such fund to cover the years of service credited to him for purposes of his retirement under subparagraph (A), had such service been service as an employee as defined in section 8331(1) of title 5, United States Code. The amount so

required to be deposited with respect to any transferring officer shall be computed on the basis of the sum of each of the amounts described in paragraph (3)(A) which were received by, or accrued to the benefit of, such officer during the years so credited. The deposits which the Secretary is required to make under this subparagraph with respect to any transferring officer shall be made within two years after the date of his transfer as provided in paragraphs (1) and (2), and the amounts due under this subparagraph shall include interest computed from the period of service credited to the date of payment in accordance with section 8334(e) of title 5, United States Code.

(8)(A) A commissioned officer of the Public Health Service who, upon the day before the effective date of the plan, is on active service therewith primarily assigned to the performance of functions described in paragraph (1)(A), shall, while he remains in active service, as defined by section 211(d) of the Public Health Service Act, be assigned to the performance of duties with the Agency, except as the Secretary and the Administrator may jointly otherwise provide.

(B) Paragraph (2) of section 6(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 456(a)(2)) is amended by inserting "the Environmental Protection Agency," after "Department of Justice,".

(c)(1) Section 302(a) of the Clean Air Act is amended to read as follows:

"(a) The term 'Administrator' means the Administrator of the Environmental Protection Agency."

(2) The Clean Air Act is amended by striking out "Secretary" wherever it appears (except in reference to the Secretary of a department other than the Department of Health, Education, and Welfare) and inserting in lieu thereof "Administrator"; by striking out "Secretary of Health, Education, and Welfare" wherever it appears, and inserting in lieu thereof "Administrator"; and by striking out "Department of Health, Education, and Welfare" wherever it appears, and inserting in lieu thereof "Environmental Protection Agency".

SAVINGS PROVISIONS

SEC. 16. (a)(1) Any implementation plan adopted by any State and submitted to the Secretary of Health, Education, and Welfare, or to the Administrator pursuant to the Clean Air Act prior to enactment of this Act may be approved under section 110 of the Clean Air Act (as amended by this Act) and shall remain in effect, unless the Administrator determines that such implementation plan, or any portion thereof, is not consistent with the applicable requirements of the Clean Air Act (as amended by this Act) and will not provide for the attainment of national primary ambient air quality standards in the time required by such Act. If the Administrator so determines, he shall, within 90 days after promulgation of any national ambient air quality standards pursuant to section 109(a) of the Clean Air Act, notify the State and specify in what respects changes are needed to meet the additional requirements of such Act, including requirements to implement national secondary ambient air quality standards. If such changes are not adopted by the State after public hearings and within six months after such notification, the Administrator shall promulgate such changes pursuant to section 110(c) of such Act.

(2) The amendments made by section 4(b) shall not be construed as repealing or modifying the powers of the Administrator with respect to any conference convened under section 108(d) of the Clean Air Act before the date of enactment of this Act.

(b) Regulations or standards issued under title II of the Clean Air Act prior to the enactment of this Act shall continue in effect until revised by the Administrator consistent with the purposes of such Act.

And the Senate agree to the same.

HARLEY O. STAGGERS,
JOHN JARMAN,
PAUL G. ROGERS,
WILLIAM L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

JENNINGS RANDOLPH,
STEPHEN M. YOUNG,
EDMUND S. MUSKIE,
WILLIAM B. SPONG, Jr.,
THOMAS F. EAGLETON,
JOHN SHERMAN COOPER,
J. CALEB BOGGS,
HOWARD H. BAKER, Jr.,
ROBERT DOLE,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17255) to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate struck out all of the House bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the House bill and the Senate amendment. Except for technical, clarifying, and conforming changes, the following statement explains the differences between the House bill and the substitute agreed to in conference.

Existing law and the House and Senate versions of the bill all provide that the Clean Air Act is to be carried out by the Secretary of Health, Education, and Welfare. During the period in which the committee of conference was considering the bill, all of the functions of the Secretary of Health, Education, and Welfare under the Clean Air Act were transferred, pursuant to Reorganization Plan Numbered 3 of 1970, to the Administrator of the Environmental Protection Agency. Accordingly, all references to the Secretary in the bill, in existing law, and in the statement of Managers have been changed to "Administrator", and provisions have been added authorizing the transfer of personnel of the Public Health Service to the new agency.

Sections 103 and 104. Research

The House bill would make no change in the present provisions of the Clean Air Act relating to fuel and vehicle research. The Senate amendment would make several changes in section 104 and would add a new section 107 which would call for special emphasis on research relating to effects of air pollution. In regard to section 104, the Senate amendment would provide (1) new authority for research directed toward development of methods of improving the efficiency of fuels combustion and producing synthetic or new low-pollution fuels, and (2) new authority for awarding of grants and contracts for part of the cost of programs to develop low-emission alternatives to the internal combustion engine and for payment of the cost of purchasing motor vehicles and engines for research and development and testing. In the proposed new section 107, the Administrator was directed to give special emphasis to research on the short-term and long-term effects of air pollutants, and was authorized to enter into long-term contracts to carry out such research. Proposed new section 107 also would require the Administrator to consult with other Federal agencies to insure that research conducted under such section does not duplicate their research programs.

The conference substitute adopts the Senate provision with respect to section 104 and includes (as a new subsection to existing section 103) the provisions set forth in proposed new section 107.

Section 105. Grants for Support of Air Pollution Planning and Control Programs

The House bill would make no change in existing section 105 of the Clean Air Act. The Senate amendment would make several changes, the principal one being that State agencies would be eligible for the higher levels of Federal grant support currently available only to interstate and intermunicipal agencies. State agencies would be eligible for such greater support only in those instances where the grant funds are to be used for a State-operated regional air pollution planning or control program. The Senate amendment would add two other new provisions to section 105. One of these provisions would authorize a reduction in payments to grantee agencies in cases where Federal employees are detailed to such agencies. The other new provision would authorize the withholding of grant funds from any agency found by the Administrator to be inadequately staffed or funded to meet its responsibilities under the Clean Air Act.

The conference agreement includes the Senate provision to provide greater support to state agencies and authority to detail Federal employees but deletes the provision for withholding grant funds. The conferees recognize that the Administrator has general authority under section 113 to act where a state is not carrying out its enforcement responsibilities.

Section 106. Interstate Air Quality Agencies or Commissions

The House bill would delete section 106 of the Clean Air Act. The Senate amendment would retain the provisions for Federal funding of interstate air quality planning programs but would eliminate the existing authority for the Administrator to establish interstate air quality planning commissions.

The conference substitute would modify the Senate amendment to make clear that such Federal grants would be for the purpose of developing implementation plans for designated interstate air quality control regions.

Section 107. Air Quality Control Regions

Under the House bill each State was declared to be an air quality control region for purposes of attaining ambient air quality standards. Interstate air quality control regions designated under existing law and interstate regions designated after enactment of this legislation would also be air quality control regions.

Under the Senate amendment, existing interstate and intrastate regions would be retained, and the Administrator could designate new interstate and intrastate regions. Any part of a State not included in a designated region would be an air quality control region, but could be subdivided into two or more regions.

The conference substitute makes it the primary responsibility of each State to assure air quality within the entire geographic area comprising such State by submitting an implementation plan for such

State for achieving air quality standards. All interstate and intrastate regions designated prior to enactment of this legislation would remain in effect. The Administrator retains authority to designate interstate and intrastate regions and is authorized to approve the establishment by the State of intrastate regions.

Section 108. Air Quality Criteria and Control Techniques

The House bill did not change the substance of the provision of existing law which requires the issuance of air quality criteria and information on control techniques. The Senate amendment proposed to establish a deadline by which criteria for certain pollutants would have to be issued and provided the Administrator with authority to establish a consulting committee to advise him on control technology.

The conference substitute substantially adopts the provisions of the Senate amendment.

Section 109. National Ambient Air Quality Standards

Under the House bill the Administrator had 30 days after enactment in which to propose national ambient air quality standards for each pollutant or combination of pollutants for which criteria had been issued under existing law. Such proposed standards were to be published 30 days after the issuance of the criteria for any other pollutant or combination thereof. After allowing a reasonable time for comment on proposed standards, the Administrator was to promulgate the standards with appropriate modifications. In addition, States were authorized to adopt more stringent air quality standards than the national standards established by the Administrator.

The Senate amendment declared that national ambient air quality standards and goals were to be issued by the Administrator. The standards were to be adequate to protect the health of persons. The goals were to be adequate to protect the public health or welfare from any adverse effects.

The Senate amendment called for the Administrator to promulgate proposed standards within 90 days after initial publication. Standards were to be proposed simultaneously with the issuance of criteria for pollutants (or combinations thereof) for which criteria had not been issued under existing law. Proposed national ambient air quality goals were to be published simultaneously with the publication of the proposed standards.

The Senate bill required that each State consider adoption of more stringent air quality standards than the national standards at its public hearing on the proposed implementation plan, unless a separate hearing was held for that purpose. The Senate bill permitted States, political subdivisions thereof and other specified governmental agencies to establish more stringent standards than the national standards or shorter deadlines for their attainment than three years.

The conference substitute follows the Senate amendment in establishing deadlines for the development of national ambient air quality standards. The Senate amendment was modified to provide for primary and secondary standards, the former relating to public health and the latter to public welfare.

Section 110. Implementation Plans

Under the House bill after promulgation of a national ambient air quality standard, each State was to hold public hearings and adopt a plan to implement such standard (or the more stringent State standard). The Administrator was to approve the plan if it assured achievement of the standard within a reasonable time and contained adequate provision for State enforcement, intergovernmental cooperation to attain standards, and revision of the plan under specified circumstances.

The House bill authorized the Administrator to propose a plan applicable to any State, if it failed to submit an acceptable implementation plan within the allotted time. The plan was to be promulgated 30 days after publication, unless the State adopted an acceptable plan or the Governor petitioned the Administrator for a hearing.

Under the Senate amendment each State was to hold public hearings and adopt a plan to implement the national ambient air quality standards (or the more stringent State standards) and national ambient air quality goals. The Administrator was required to approve the plan if he found that it provided for attainment of the standard within three years from the date of approval of the plan. The Governor of a State, however, was authorized to petition the Federal district court to extend for a year the period for attaining a standard. The court could grant relief only upon specified showings and each one-year extension could be granted only after the filing of a new petition and making the required showings. Under the Senate bill implementation plan would also have to provide for necessary land-use and transportation controls, intergovernmental cooperation to attain standards and goals, periodic reports on emissions from specified sources, and certain other requirements.

The conference substitute follows the Senate amendment in establishing deadlines for implementing primary ambient air quality standards but leaves the States free to establish a reasonable time period within which secondary ambient air quality standards will be implemented. The conference substitute modifies the Senate amendment in that it allows the Administrator to grant extensions for good causes shown upon application by the Governors.

Section 111. Standards of Performance for New Stationary Sources

Section 112. National Emission Standards for Hazardous Air Pollutants

Under the House bill, the Administrator would establish emission standards for classes of new stationary sources, emissions from which may contribute substantially to endangerment of public health or welfare. In setting such standards, the Administrator would consider economic and technological feasibility. The Administrator was also authorized to exempt certain sources or classes of sources for reasons specified in the bill. For standards relating to emissions which are extremely hazardous to health, the Administrator could by regulation prohibit new sources of such emissions from being constructed or

operated, although he could grant specific exemptions. For standards relating to other emissions, the regulations were to require that new sources of such emissions be designed and equipped to maximize emission control insofar as technologically and economically feasible. The House bill also authorized States to enforce emission standards under this provision if they adopt an adequate enforcement plan. If no such plan was adopted, the Administrator would establish the enforcement plan.

Under the Senate amendment, the Administrator was to publish a list of categories of stationary sources and standards of performance applicable to such new sources. The standards of performance were to be based on the greatest emission control possible through application of latest available control technology. The Administrator was also required to establish a system of preconstruction review and certification of design and location of new sources in order to assure attainment of primary and secondary ambient air quality standards. States were authorized to conduct the certification upon submission of acceptable procedures to the Administrator. New sources would be prohibited from operating without certification or in violation of any applicable standard of performance. Under the Senate amendment if a standard of performance were violated, the Administrator could issue an abatement order and failure to initiate abatement within 72 hours would result in suspension of the certificate and subject the owner or operator to criminal penalties for operation thereafter.

The Senate amendment also provided in a separate section for the publication of a list of air pollutants (or combination thereof) which are hazardous to the health of persons. Pollutants "hazardous to the health of persons" were defined as those whose presence in trace concentrations in the ambient air will cause or contribute to specified types of damage to health. The Administrator was directed to publish proposed regulations prohibiting emissions of such pollutants from any existing or new stationary source and, after public hearing, he was to promulgate such regulations, unless upon a preponderance of the evidence, he found that the pollutant was not hazardous to the health of persons or that some amount could be emitted without endangering the health of persons. After making either of these findings, the Administrator was to publish an emission standard for such pollutant applicable to designated stationary sources.

Under the conference substitute the Administrator is directed to meet specified deadlines in publishing a list of categories of stationary sources which contribute significantly to air pollution, in issuing proposed Federal standards for new sources in such categories, and in finalizing such standards after receiving comments by interested persons. The conference substitute does not contain the pre-construction review and certification procedure provided for in the Senate amendment. New sources would be held to established standards of performance, and violations of such standards would subject the owners of such sources to abatement actions under Section 113.

The conference substitute requires the Administrator, within specified deadlines, to publish a list of hazardous pollutants, to issue proposed emission standards for such pollutants, and to finalize such standards after public hearings. Emission levels must provide an ample margin of safety to assure public health protection. New sources emitting such pollutants may be constructed only if they

meet the standards. Standards would apply to existing sources, but Administrator may grant a waiver for up to two years for those existing sources where such period is necessary for installation of control equipment and where during such period the health of persons is protected from imminent danger by other means. Moreover, the President may exempt any new or existing stationary source for a two-year period if he finds that necessary technology is unavailable to implement standards, and that operation of source is required for reasons of national security. The President may extend national security exemptions for one or more two-year periods, but must report to Congress each exemption or extension.

Section 113. Federal Enforcement

Section 114. Inspections, Monitoring, and Entry

Section 116. Abatement by Means of Conference Procedure

The House bill amended section 108 by authorizing the Secretary of Health, Education, and Welfare, to request the Attorney General to bring suit to abate intrastate as well as interstate air pollution where a State failed to enforce its implementation plan, and, in a new section 112 provided for Federal enforcement of Federal emission standards for stationary sources. Each of the two sections provided for court assessment of penalties against polluters, and authorized entry into and inspection of suspected polluters' facilities by DHEW investigative personnel for purposes of enforcement. The Senate bill established a new section 116 directing the Secretary to issue an abatement order to any person in violation of a State implementation plan requirement not being enforced by the State, and to a person in violation of any Federal stationary source emission standard or limitation required under section 113 or 114 of the Senate bill. Section 116 further provided for the institution of civil actions by the Secretary to obtain compliance with abatement orders, with requirements under section 113, 114, or 115, and with inspection and monitoring requirements imposed in Title I, and authorized substantial fines and imprisonment for knowing violations of emission standards and limitations, knowing failure or refusal to comply with an abatement order, or knowing falsification or misrepresentation in required reports, records, or monitoring data. Also under section 116, the Senate authorized entry and inspection by DHEW personnel of buildings, facilities, and monitoring equipment for purposes of setting standards and enforcing them. The Senate's proposed new sections 113 and 114 also provided for assessment of civil penalties by the Secretary for violation of standards imposed thereunder.

The conference substitute retains the enforcement provision of existing law for abatement of international pollution problems and abatement against certain sources of pollution not covered by these amendments. Past enforcement action and requirements are preserved.

The conference substitute follows the House bill relating to enforcement in areas of primary State responsibility and the Senate amendment where primary Federal responsibility exists. In case of a violation of any requirement of a State implementation plan, the Administrator is to notify the State in which the violation occurs as well as the

violator. If the violation extends beyond the thirtieth day after notification, the Administrator may issue an order requiring compliance by such person or may bring court action against such person. In case of a State failure to enforce a plan, the Administrator shall notify the State. If the State's failure to enforce such plan extends beyond the thirtieth day after notification, the Administrator is to give public notice of such finding and thereupon, until the State resumes enforcement of plan, the Administrator may enforce the implementation plan either through an order requiring any violator in such State to comply or by bringing court action against any such violator.

In case of a violation of a Federal standard of performance for new stationary sources or a Federal emission standard for hazardous pollutants, the Administrator may enforce such standards either through an order requiring any violator to comply or by bringing court action against any violator. Under sections 111 and 112, the Administrator has authority to delegate enforcement authority to the States to enforce these Federal standards concurrently with the Federal Government.

Knowing violations of an order issued by the Administrator or of State implementation plan requirements (where the violator has received notice) or of Federal standards of performance for new sources or of Federal emission standards for hazardous emissions shall be punishable by a fine of not more than $25,000 per day of violation or by imprisonment for not more than one year. For second or subsequent violations the fine is not more than $50,000 and imprisonment for not more than two years.

The provisions of the conference substitute with regard to inspections, monitoring and entry follow substantially the provisions of the Senate amendment.

Section 116. Retention of State Authority

Except with respect to standards for moving sources, the States' authority to adopt and enforce standards applicable to air quality and emissions is retained in the conference substitute.

The conference substitute retains the provisions of the Senate amendment which requires (to the extent practicable within the time provided) consultation with advisory committee prior to carrying out certain functions required by Secs. 108, 111, 112 and 202.

Section 118. Control of Pollution From Federal Facilities

The House bill and the Senate amendment declared that Federal departments and agencies should comply with applicable standards of air quality and emissions.

The conference substitute modifies the House provision to require that the President rather than the Administrator be responsible for assuring compliance by Federal agencies.

Section 202. Establishment of Standards

The House bill did not amend the provisions of existing law relating to the establishment of standards for new motor vehicles. The Senate amendment deleted the requirements that such standards be based on

a test of technical and economic feasibility, and provided statutory standards for passenger cars and required that such standards be achieved by a date certain. The Senate bill also provided that the statutory deadline could be extended for not more than one year if the Administrator made a series of specified findings. The Senate bill also authorized the Administrator to set standards of emission performance for vessels, commercial vehicles, and aircraft. (The House bill treated aircraft emissions in a different section.)

The conference substitute follows substantially the Senate amendments. The Administrator is directed to establish emission standards for pollutants from new motor vehicles or engines which are likely to endanger the public health or welfare. Such standards are to be applicable for the useful life of the vehicles or engines. The statute specifies that "useful life" shall be a period of use of at least five years or 50,000 miles, whichever occurs first. Administrator shall prescribe regulations to implement this definition. The effective date of the standards is to depend on the period necessary to develop the requisite technology giving appropriate consideration to the cost of complying by such date.

Carbon monoxide and hydrocarbon emissions from light duty vehicles for 1975 model year and thereafter are to be reduced at least 90 per centum over 1970 standards for these pollutants. Oxides of nitrogen emissions from light duty vehicles for the 1976 model year and thereafter are to be reduced by at least 90 per centum over the actual emission of these pollutants from 1971 model vehicles which were not subject to Federal or State standards for such emissions.

Any manufacturer may apply to the Administrator within specified time limits for a one-year suspension of the statutory time limits, and the Administrator is to issue interim standards if he approves such application. Such interim standards are to reflect the greatest degree of emission control which is achievable by application of technology determined by the Administrator to be available, giving appropriate consideration to the cost of applying such technology within the time available to manufacturers. The Administrator is to take into consideration whether the manufacturer has met statutory requirements relating to public interest, public health and welfare, availability of technology, and good faith efforts to meet standards.

The Administrator is to undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the feasibility of meeting statutory deadlines for the 1975 and 1976 model years. In entering into such arrangements, Administrator is to request the Academy to submit its first report not later than July 1, 1971. The Administrator is directed to use the authority granted to him to furnish to the Academy any information requested by it.

Sections 203–205. Enforcement of Motor Vehicle Emission Standards

The House bill revised the enforcement provisions respecting motor vehicle emissions to prohibit sale of new motor vehicles and engines without complying with the House warranty and labeling requirements. The Senate amendment revised these provisions to prohibit rendering emission control systems or devices inoperative after sale of the vehicle or engine, to remove the exemption for vehicles or engines manufactured for export, and to increase the maximum penalty

for violations of the enforcement provisions from $1,000 to $10,000 per vehicle.

Sec. 203 generally follows the provisions of the House bill except that prohibited acts are added relating to recall (Sec. 207) or knowing removal of devices by the manufacturer or dealer. Also, vehicles intended solely for export must comply with Federal emission standards unless the importing nation has differing requirements affecting motor vehicle emissions or has advised that no such requirements exist at this time. Penalties provided in Sec. 205 follow the Senate amendment.

Sections 206–207. Compliance With Motor Vehicle Emission Standards

The provisions of the House bill and the Senate amendment revising the procedures under existing law for prototype testing and authorizing production line testing of new motor vehicles and engines were essentially the same, except that the Senate amendment required compliance testing of each vehicle prior to delivery. In addition, the Senate amendment required semiannual publication of the results of prototype and assembly line testing, and disclosure by manufacturers of the actual cost of emission control devices and systems.

The House bill required manufacturers to warrant that vehicles or engines they produce are of substantially the same construction as the prototype vehicle with respect to which the certificate of conformity was issued. The Senate amendment required (effective 90 days after the Administrator establishes feasible testing methods and procedures) that manufacturers warrant that vehicles and engines will conform with applicable emission standards throughout their useful life (set at 5 years or 50,000 miles) if maintenance and certain other requirements are met.

The Senate amendment also authorized the Administrator, if he determined that any class or category of vehicles or engines did not conform with applicable emission standards, to require manufacturers to notify purchasers of such nonconformity. Moreover, if a manufacturer discovered such nonconformity during the term of any warranty required under the Senate amendment, he was required to notify purchasers of the nonconformity and to remedy such nonconformity at no cost to the owner.

The conference substitute adopts substantially the provisions of the House bill relating to prototype and production line testing and the provisions of the Senate amendment relating to compliance after sale and warranty. The Administrator would be required to test, or require to be tested, any new motor vehicle or engine submitted by any manufacturer to determine whether such vehicle or engine meets Federal emission standards. If such vehicle or engine conforms, Administrator shall issue certificate of conformity for a period not to exceed one year. Additionally, the Administrator would be required to test any emission system incorporated in an automobile submitted by any person (who need not be an automobile manufacturer) to determine whether such system meets the statutory emission standards prescribed by section 202. He is to inform automobile manufacturer, the National Academy of Sciences, and the public of the results of such tests. The Administrator may test (or prescribe tests to be performed by the manufacturer) all or a sample of vehicles or engines on the assembly

line to determine whether such vehicles or engines actually conform with applicable emission standards. If the Administrator determines that such vehicles or engines do not conform, he may suspend or revoke certificate in whole or in part. Such suspension or revocation shall apply to vehicles manufactured after date of notification (or if manufactured prior thereto, to vehicles still in the hands of the manufacturer). Such suspension or revocation shall continue until the Administrator finds that vehicles or engines conform. During the period of suspension or revocation, the Administrator may issue certificate of conformity applicable to those vehicles or engines which he has found actually conform to emission standards. An administrative hearing, with judicial review, is provided.

The Administrator's employees may conduct plant inspections or inspect records upon presentation of appropriate credentials.

To assist prospective purchasers, the Administrator is to make available to the public comparative test results.

The Administrator is required to establish methods for testing vehicles and engines in actual use to determine their compliance with emission requirements during their useful life (5 years or 50,000 miles, as defined by the statute).

The provision for warranty follows the Senate bill except, in addition to establishing test procedures, the Administrator must find that inspection facilities or equipment are available to enforce individual vehicle compliance. Also a warranty will not become effective for a vehicle unless failure to comply with a standard subjects the purchaser to sanctions. Proper operation and maintenance are a precondition to the manufacturer's obligation. In addition to the performance warranty, the conference substitute calls for a defect warranty for materials and workmanship.

If the Administrator determines (on the basis of inspections or studies) that a substantial number of any class of vehicles or engines, although properly maintained and used, do not meet the emission standards during the useful life of such vehicles or engines, he shall notify the manufacturer of such nonconformity, and he shall require the manufacturer to submit a plan for remedying such nonconformity. In the case of properly used and maintained vehicles and engines, this is to be done at the expense of the manufacturer. If a manufacturer disagrees with such determination the Administrator shall afford the manufacturer and other interested persons an opportunity to present their views at a public hearing. Unless, upon such hearing, the Administrator withdraws such determination, he shall, within 60 days after completion of the hearing, order the manufacturer to notify purchasers. The Administrator shall prescribe regulations concerning notification procedure. Any cost obligation incurred by any dealer is to be borne by the manufacturer and transfer of such cost obligation through franchise or any agreements from a manufacturer to a dealer is prohibited.

If a manufacturer's advertising makes any statement respecting the cost or value of emission control devices or systems, such statement must set forth the cost or value attributed to such devices or systems by the Secretary of Labor (through the Bureau of Labor Statistics). The manufacturer shall furnish such written instructions for maintenance and use of any vehicles and engines by ultimate purchasers as are necessary to assure proper functioning of emission control devices

or systems. The manufacturer must indicate by a permanently attached label that the vehicle or engine is covered by a certificate of conformity.

Section 208. State Motor Vehicle Emission Standards

The Senate amendment modified section 208 of existing law to expand the authority of States to adopt and enforce emission standards for new motor vehicles and engines. The House bill did not change existing law.

The conference substitute follows the House bill by retaining the provision of existing law.

Section 211 Regulation of Fuels

Existing law (sec. 210 of the Clean Air Act) provides for registration of fuels and fuel additives delivered for introduction into commerce. The House bill amended this section to authorize the Administrator to establish standards respecting the physical or chemical properties of any fuel or fuel additive by specifying limitations on (or providing for elimination of) ingredients (including additives) or on the physical or chemical characteristics of any fuel or class of fuels if either (1) emission products from the fuel or fuel additive endanger public health or welfare, or (2) the fuel or fuel additive will significantly impair performance of an emission control device or system in general use (or likely to be in general use) on a significant number of motor vehicles or motor vehicle engines. Such standards must be based on specific medical, scientific, economic, and technological findings specified in the House bill.

The Administrator's authority under the House bill was applicable to all types of fuels, whether used in stationary sources or in motor vehicles, except that it did not apply to aviation fuel or additives thereto.

The Senate amendment amended the fuel registration provisions to expand the Administration's authority in this area, and in addition authorized him to control or prohibit the introduction into commerce of any fuel for use in vehicle engines if the combustion or evaporation of such fuel produces emissions which endanger the public health or welfare, or if such emissions prevent operation of effective systems for the control of emissions from any vehicle or vehicle engine which the Administrator finds would otherwise conform to applicable emission standards. The Administrator was required to hold public hearings and make certain findings before establishing a control or prohibition under this provision. Regulation of motor vehicle fuels by States and political subdivisions for purposes of emission control was preempted by the Senate amendment.

Under the conference substitute the Administrator may control or prohibit manufacture or sale of any motor vehicle fuel or fuel additive if any emissions therefrom will endanger the public health or welfare, or if emission products of such fuel or additive will impair to a significant degree the performance of any emission control device or system which is or will be in general use. Existing provisions of law relating to registration of fuels and fuel additives are retained with some revisions.

Before controlling or prohibiting manufacture or sale, the Administrator is required to consider specific technical and cost factors. Automobile manufacturers are required to furnish to the Administrator any information developed concerning emissions from motor vehicles resulting from the use of any fuel or fuel additive or the effect of such use on the performance of any emission control device or system.

No State may prescribe or enforce controls or prohibitions respecting any fuel or additive unless they are identical to those prescribed by the Federal Government or unless a State implementation plan under sec. 110 includes provision for fuel or additive control and such plan is approved by the Administrator as being necessary for achievement of national air quality standards. These restrictions will not apply to California.

A civil penalty of $10,000 per day is provided for violations of the provisions relating to fuels and additives.

Section 210. State Grants

The House bill made no changes in existing law under which the Administrator may make grants to State air pollution control agencies in an amount up to two-thirds of the cost of developing uniform motor vehicle emission device inspection and emission testing programs.

Under the Senate amendment, such grant authority would be broadened (1) to cover the costs of maintaining, as well as developing, such programs and (2) to include emission control programs as well as device inspection and emission testing programs. The Senate amendment also provided that grants under section 210 would be in addition to, and not supplant, existing funding programs of a State for air pollution control.

The conference substitute provision is the same as that in the Senate amendment except that (1) the language providing that section 210 grants must be in addition to existing State funding programs is deleted, and (2) such grants to any State are made subject to the condition that the State program includes provisions designed to insure that emission control devices and systems on vehicles in actual use are not disconnected or rendered inoperative.

Section 212. Development of Low-Emission Vehicles

The Senate amendment contains provisions not in the House bill under which the development of low-emission vehicles would be encouraged by requiring such vehicles to be purchased for use by agencies of the Federal Government if the cost of such vehicles would not exceed 150 per centum (200 per centum in the case of vehicles powered by new inherently low-polluting propulsion systems) of the retail price of any class or model of motor vehicle for which such low-emission vehicles are a certified substitute. Under the Senate amendment, such certifications would be made by a Low-Emission Vehicle Certification Board composed of the heads of designated interested Federal agencies, and two members appointed by the President. The Board may certify any class or model of motor vehicles only if a certification application has been filed in accordance with

regulations prescribed by the Board, the Administrator of the Environmental Protection Agency determines that the vehicle concerned is a low-emission vehicle, and the Board determines that such vehic e is suitable for use as a substitute for vehicles in use at that time by Federal agencies. The Senate amendment authorized an annual appropriation of not to exceed $50,000,000 for paying additional amounts for low-emission vehicles pursuant to, and for carrying out the purposes of section 212.

The conference substitute substantially incorporates the provisions of the Senate amendment. One significant change relates to the definition of low-emission vehicles. Under the Senate provision, a low-emission vehicle is defined as any motor vehicle which produces significantly less pollution than the class or model of vehicle for which the Board may certify it as a suitable substitute. Under the conference substitute, the definition of a low-emission vehicle takes into account the applicable emission standards which will be applied with respect to newly-manufactured motor vehicles under section 202 by providing that a low-emission vehicle is one which (1) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under such section 202 at the time of procurement to that type of vehicle; and (2) with respect to all other air pollutants, meets the new motor vehicle standards applicable under such section 202 at the time of procurement to that type of vehicle.

The conference substitute would reduce the authorizations in the Senate bill as follows: $5 million for the remainder of fiscal year 1971 and $25 million for fiscal years 1972 and 1973.

Section 241. Aircraft Emission Standards

Under the House bill (in a separate part of title II of the Clean Air Act) the Administrator was required to prescribe, as soon as practicable, standards applicable to the emission of any substance from aircraft or aircraft engines which in his judgment would, or likely would, cause or contribute to air pollution which endangers the health or welfare of any persons. The Administrator was required to consult with the Federal Aviation Administrator before prescribing such standards. The House bill required the Administrator of the Environmental Protection Agency, in prescribing such standards, to consider technological feasibility and economic costs; to include such requirements with respect to manufacturers' warranties on aircraft emission control systems as are necessary to carry out the purposes of the Act; and to make any such standard effective with respect to any class of aircraft or aircraft engines on such date as the Administrator determines appropriate after taking into account such period of time as may be reasonably necessary for compliance. The House bill also provided that the Federal Aviation Administrator would apply such emission standards in the certification and inspection of aircraft and aircraft engines pursuant to his authority under the Federal Aviation Act of 1958. Under the House bill, the States were preempted from adopting or enforcing any emission control standard with respect to aircraft or aircraft engines to which the Federal standards would apply.

Under the Senate amendment aircraft and aircraft engine emissions were treated in a manner substantially similar to that in the House bill with the exception that the Administrator was not required to consider technological feasibility and economic costs in prescribing emission standards and that new aircraft and aircraft engines were subject to certification and compliance procedures similar to those which would be applied to new motor vehicles and new vehicle engines under section 202 of the Senate amendment.

The conference substitute requires that the Administrator of the Environmental Protection Agency set forth, after a 180-day study of the effect of aircraft emissions or air quality, and the availability of emission control technology, and after public hearings in regions where air quality is most affected by aircraft emissions, standards for such emissions to take effect after such time as the Administrator, in consultation with the Secretary of Transportation, deems necessary to develop and apply requisite technology. The Secretary of Transportation is required to enforce these standards, and States and political subdivisions are prohibited from adopting or enforcing aircraft emission standards unless they are identical to standards prescribed under this legislation.

Section 244. Aviation Fuel Standards

The House bill amended the Federal Aviation Act to provide for the establishment of standards for aviation fuels for the purpose of controlling or reducing aircraft emissions. The Senate amendment included no comparable provision.

The conference substitute follows the House bill except that the fuel standards are to be recommended by the Administrator of the Environmental Protection Agency. The Administrator of the Federal Aviation Administration is required to prescribe such recommended standards.

Section 303. Emergency Powers

The House bill retained the provision of existing law (Sec. 108 (k)) relating to direct action by the Administrator to seek an injunction to abate pollution which presents an imminent and substantial endangerment to public health without regard to location of the source or sources of such pollution. The Senate amendment retained substantially the same authority but placed it in a new section.

The conference substitute follows the Senate amendment.

Section 304. Citizen Suits

The House bill did not include a provision for citizen suits. The Senate amendment authorized citizen suits against violators, government agencies, and the Administrator to seek abatement of such violations or for enforcement of the provisions of the Act. Notice of thirty days was required except in certain instances. Discretionary authority was provided to the court to grant reasonable attorney and expert witness fees. Other rights to seek enforcement of standards under other provision of law were not affected.

The conference substitute retains provisions for citizen suits with certain limitations. Suits against the Administrator are limited to alleged failure to perform mandatory functions to be performed by him. Suits against violators, including the United States and other government agencies to the extent permitted by the Constitution, would also be authorized. Prior to commencing any action in the district courts, the plaintiff must have provided the violator, the Administrator and the State with sixty days notice. If an abatement action is pending and is being diligently pursued in a United States or State court, such action cannot be commenced but any party in interest may intervene as a matter of right.

No delay following notice is required where there is an alleged violation of a hazardous emission standard or of an order of the Administrator. The conference substitute also provides that actions respecting violations by stationary sources are to be brought in the district in which the source is located and establishes that, in any action, the Administrator may intervene as a matter of right.

The courts' discretionary authority to award costs, as provided in the Senate amendment, is retained. In addition the Courts' discretionary authority to require filing of bond if a temporary restraining order or preliminary injunction is sought is noted.

The right of persons (or class of persons) to seek enforcement or other relief under any statute or common law is not affected.

Section 305. Appearance

The Senate amendment provided authority for the Administrator to represent himself in court rather than relying on the Attorney General. The House bill did not contain a similar provision.

The conference substitute provides the Administrator with authority to represent himself in a court action if, after notice, the Administrator determines that the Attorney General will not act, or will not act soon enough.

Section 306. Federal Procurement

The Senate bill amended the Act by adding a new section 306 declaring that any person not in compliance with a Federal court order issued pursuant to the Act or convicted by a Federal court for a knowing violation of an emission standard or limitation under the Act would not be eligible to enter into procurement contracts with Federal agencies, until such time as the Secretary certifies that the person has come into compliance. The section also directed the President to issue an order instructing Federal agencies to effectuate the purpose and policy of the Act in entering into contracts, and in making grants and loans, but further authorized the President to exempt a particular contract, loan, or grant from all or part of the provisions of the section where necessary in the interests of the United States. The House bill contained no comparable provisions.

The conference substitute is more limited than the Senate provision. It provides that persons convicted of a knowing violation of standards or limitations shall be ineligible to enter into Federal contracts until the Administrator certifies that the violation has been corrected. The remainder of the conference substitute follows the Senate amend-

ment by requiring the President to issue an order requiring Federal agencies (1) to assist in the implementation of this Act and (2) to establish sanctions for non-compliance. Authority is provided to exempt contracts, loans, and grants in the paramount interest of the United States from such sanctions for reasons of national security. Such exemptions and other efforts to implement the Act are to be reported to the Congress.

Section 307. Administrative Proceedings and Judicial Review

The Senate bill inserted a new section 308 in the Act to establish guidelines and specify forums for judicial review of certain actions of the Secretary provided for under the Act and the proposed amendments, and provided that commencement of such proceedings would not stay applicability of any standard, requirement, limitation, or waiver which was the subject of the Secretary's action. No comparable provisions appeared in the House bill.

The conference substitute includes provisions relating to subpenas, specifies the courts in which certain appeals may be prosecuted, and the circumstances under which additional evidence may be ordered by the courts to be taken by the Administrator.

Section 308. Mandatory Licensing

The Senate amendments contained provisions for the mandatory licensing of patents, trade secrets, and know-how whenever the Administrator determined that the achievement of standards established under specified sections of the Senate amendments required the utilization of such patents, trade secrets or know-how. The House bill did not contain comparable provisions. The conference substitute is limited to patents. It would authorize the Attorney General (rather than the Administrator) to certify to a U.S. District Court that conditions specified in the section (relating to (1) the need for using the patent to achieve emission limitations required by this Act, (2) the absence of alternative methods to achieve such emissions, and (3) resulting lessening of competition or monopolization) exist and may seek a court rule requiring licensing on such reasonable terms and conditions as the court may determine.

Section 401. Noise Pollution

The Senate bill added a new Title IV to the Act, which directed the Secretary of Health, Education, and Welfare to establish an Office of Noise Abatement and Control for the purpose of investigating and identifying the sources of noises and effects on public health and welfare, and to report to the President and Congress within one year of enactment the results of the investigation and study. The Senate amendment also provided a specific authorization of $30 million to carry out Title IV. The House bill made no provision respecting noise.

The conference substitute follows the provisions of the Senate amendment.

Section 309. Authorizations

The House bill would authorize appropriations of the following amounts:

Fiscal Year	Sec. 104	Sec. 309	Total
1971	$75,000,000	125,000,000	200,000,000
1972	100,000,000	150,000,000	250,000,000
1973	125,000,000	200,000,000	325,000,000
Total	300,000,000	475,000,000	775,000,000

The Senate bill would authorize appropriations of the following amounts:

Fiscal Year	Sec. 104	Sec. 309	Total
1971	$125,000,000	150,000,000	275,000,000
1972	150,000,000	250,000,000	400,000,000
1973	175,000,000	325,000,000	500,000,000
Total	450,000,000	725,000,000	1,175,000,000

It should be noted that the Senate bill would redesignate section 309 as section 317.

In addition, the Senate bill would authorize appropriations of $15 million under the proposed new section 107 (long-term contracts for research on effects of air pollution); $30 million under Title IV for the Office of Noise Abatement and Control; and $50 million annually for low emission vehicle procurement.

The conference substitute adopts the House amount for Fiscal Year 1971 for Sec. 104 and Sec. 309—a total of $200 million. For Fiscal Year 1972 the conference agreement provides for a total of $350 million of which $125 million is for research on fuels and vehicles. For Fiscal Year 1973 the authorization is $150 million for research under Section 104 out of a total of $450 million. In addition the conference substitute retains $15 million for long term contracts for air pollution effects research under Section 103, $30 million for funding the Office of Noise Abatement in the Environmental Protection Agency, and $55 million for low emission vehicle procurement, $5 million of which is authorized for Fiscal Year 1971 and $25 million each for Fiscal Years 1972 and 1973.

Section 310. Policy Review

The Senate amendment provides a statutory requirement that the Administrator review and comment on environmental impact statements required by Public Law 90–190 (The National Environmental Policy Act). The Senate amendment also required the Council on Environmental Quality to review any determination of environmental impact and make a recommendation to the President. The House bill had no such provision.

The conference agreement follows substantially the Senate version. The Administrator is instructed to review and comment on Federal actions which affect the environment and make such comments public

upon completion of the review. The conference substitute eliminates the requirement that the Council make a public recommendation to the President.

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